The Planning Inspectorate

Appeal Decision

Site visit made on 2 December 2014

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 January 2015

Appeal Ref: APP/Q1445/A/14/2226527
37 Rushlake Road, Brighton, BN1 9AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr John Panteli against the decision of Brighton & Hove City Council.
- The application Ref BH2014/00427, dated 10 February 2014, was refused by notice dated 11 June 2014.
- The development proposed is *'Change of use from C3/C4 dwelling house to Sui Generis HMO with associated external alterations.'*

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Although the description of the development indicates that the appeal property is currently in use as a Class C3/C4 dwellinghouse, and I note that there is a permissible change between these two Classes, my site visit confirmed that the property falls within Class C4, being a dwellinghouse used by between three and six residents as a house in multiple occupation (HMO). The property currently has six separate bedrooms and the proposal, which would involve the creation of two additional bedrooms by way of reconfiguring both the ground and first floor layouts, would involve a material change in planning terms causing the use to move outside the parameters Of Class C4 due to the resulting 'large' HMO.

Main Issues

3. The main issues in this appeal are:

   1) whether the proposed development would provide for a satisfactory standard of accommodation for both existing and future occupiers of the property; and

   2) the effect of the proposal on the living conditions of neighbouring occupiers.

Reasons

Living conditions (occupiers of the appeal property)

4. The appeal property is a two storey detached dwellinghouse at the corner of Rushlake Road and the cul-de-sac, Rushlake Close. The two nearest properties are No 35 Rushlake Road, sited close beyond the common hedged boundary, and No 1 Rushlake Close, which is distanced further, is apparently under the control of the appellant and, I understand, similarly let as student accommodation.

5. The dwelling, originally a small family house, currently has four bedrooms on the ground floor, a kitchen/living room and small bathroom, with the first floor having two bedrooms, a small bathroom and separate wc. Whilst I consider the bedrooms are reasonably sized I noted, at my site visit, that the kitchen/living room area is somewhat restricted in terms of space. Indeed, the fact that this is the only internal communal space available for the students to sit in and interact together makes for a rather intensive arrangement.

6. Notwithstanding the above, the appeal proposal seeks to alter both the ground and first floor layouts by creating an additional bedroom on each floor. This would necessitate some of the existing bedrooms being reduced in size. A flank window would be installed to light the additional first floor bedroom and the scheme would also necessitate enlarging both the two existing ground floor flank windows. The need for additional natural lighting in such a building, and the resultant layout showing a single door demarcating one of the ground floor bedrooms from the living room, would tend to confirm my view that the proposed partitioning would amount to a rather awkward arrangement, compounding the current situation.

7. The appellant claims that the eight resultant bedrooms would exceed the minimum room sizes as set out in an appendix to the guidance 'The Licensing & Management of Houses in Multiple Occupation & Other Houses (Miscellaneous Provisions) (England) Regulations'. This might be the case but the fact that any such minimum standards are exceeded does not automatically confirm the acceptability of the proposal.

8. The explanatory text to Policy HO14 of the Brighton & Hove Local Plan (LP) expounds on the Council's approach to HMOs and mentions that it is important to ensure that an adequate supply of HMO accommodation is retained. Indeed, its continuation as a small HMO, under Class C4, would represent a level of use more proportionate to its internal floorspace whereas the intensification to the level proposed would put further pressure on the property's limited communal facilities. Although I am satisfied that the level of private garden provision would be adequate I consider that the proposal would be inappropriate in the circumstances, particularly given that LP Policy QD27 indicates clearly that planning permission will not be granted where, amongst other things, it would cause material nuisance and loss of amenity to the existing occupiers.

9. On the first main issue I conclude that the proposal would not provide for a satisfactory standard of accommodation for the property's occupiers and the

proposal would thereby conflict with the aims and requirements of LP Policy QD27.

Living conditions (neighbouring occupiers)

10. Although certain other properties within the immediate locality are being let for student accommodation the Council has not raised concerns as to a local over-concentration of properties in such use. However, it does consider that the proposal would give rise to a material increase in noise and disturbance. I have not, though, been presented with any firm evidence or information from the Council's Planning or Environmental Health sections to show that the use of local properties for student living are currently giving rise to unacceptable levels of noise and disturbance.

11. On this matter I have had regard to the representations received from interested parties, including a photograph showing household waste awaiting collection outside the appeal property. The photograph, in isolation, is only a snapshot and not clear evidence of any ongoing and persistent problem, and is not sufficiently compelling so as to indicate that the existing degree of use is already unneighbourly and would worsen from increased intensification. I am also mindful that the dwelling is detached and separated from its nearest neighbours. Further, I note that the property has a hard-surfaced driveway and am satisfied that, along with an apparent availability of kerbside parking space, there would be no disturbance or inconvenience caused by the appeal property's occupiers having use of private motor vehicles.

12. On the second main issue I thereby conclude that the living conditions of neighbouring occupiers would not be harmed by the proposal and, to this particular end, there would be no conflict with LP Policy QD27.

Other matters

13. The appellant makes reference to LP Policy QD14 but this Policy is concerned with external physical alterations to existing buildings and, primarily, extensions thereto. In this instance the only external alterations would relate to the provision of additional window space, and the Council has not raised any objections to this installation. The internal layout reconfiguration would not in itself constitute development, although the creation of two additional bedrooms and a resultant increase in the level of occupation would constitute a material change in planning terms. In this respect LP Policy QD14 is of little relevance to the appeal proposal.

14. Finally, the appellant also refers to the National Planning Policy Framework to support his case insofar as it advises that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. However, as I have found the proposal to be in conflict with the LP (the Council's development plan) this point does not help the appellant's case.

Conclusion

15. Although I have found that the proposal would not necessarily be harmful to the living conditions of neighbouring occupiers I have also concluded that the use of this modest family-sized house to the intensity proposed would not make

for a satisfactory standard of accommodation for its various occupants, and I consider this as the overriding factor. For the above reasons, and having had regard to all matters raised, I conclude that the appeal should be dismissed.

Timothy C King

INSPECTOR