



Appeal Decision

Site visit made on 8 December 2017

by **R J Marshall LLB DipTP MRTPI**

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

Decision date: 5 March 2018

Appeal Ref: APP/Q1445/W/17/3183594
33, Hillside, Brighton BN2 4TF

- 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 Oliver Dorman against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/01420, dated 25 April 2017, was refused by notice dated 21 July 2017.
 - The development proposed is change of use of an existing C4 small house in multiple occupation to a sui generis large house in multiple occupation.
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Decision

1. The appeal is dismissed.

Background

2. Planning permission was refused on the basis of: a) an unacceptable concentration of HMO uses in the area; b) harm to living conditions of neighbours; c) poor living conditions for occupants of the proposed development given room sizes; and d) harm to the character and appearance of the area due to a large roof extension. For reasons I set out further below only item c above need detain me greatly in this case.
3. Notwithstanding the appellant's observations to the contrary the development has already been undertaken so permission is being sought retrospectively for it.

Main issue

4. Thus the main issue in this appeal is whether the development for which permission is sought would provide satisfactory living conditions for its future residents with regard to the provision of internal living space.

Reasons

5. The appeal property is an end terraced house in an area of 1950s style housing. It has a lawful use as a C4 small house in multiple occupation (HMO). An additional 3 bedrooms have been provided which changes the use of the property to a large HMO.
6. Recently a substantial roof extension has been constructed along with an single-storey rear extension and 2 roof lights. In March 2017 a certificate of lawfulness for, what was then a proposed development for the above, was

allowed on appeal APP/Q1445/X/16/3164675 on the grounds that it was permitted development. At the time of this decision the works had been carried out. However, the inspector made it clear that her decision, under Section 191 of the 1990 Act, was made on the basis of whether the "proposed" works were lawful. A judgement as to whether the works undertaken were lawful would have to have been dealt with under Section 192 of the 1990 Act. There is thus no certificate of lawfulness for what has been built.

7. The extensions do not form part of the proposal before me. There is a dispute between the parties as to whether it should. The Council considers that there were undertaken to facilitate the change to a large HMO and that as such they should be included as part and parcel of this proposal for the change of use. The appellant contests this saying that the property is laid out with 6 bedrooms and continues to be occupied as a C4 HMO. However, this is plainly not the case as I saw 9 bedrooms within the premises. The appellant also refers to a tenancy agreement showing only 4 people occupying a premises. However, it is undated, there is no evidence that other agreements are not be in place and it is no guide as to the way the property was laid out. Accordingly, I attach that document little weight.
8. Given the above, and in the absence of a certificate of lawfulness for what has been built, I am left in some doubt as to whether the extensions are lawful. This being so I consider that the Council stance referred to above has some merit. The implications of adopting this view would be that the extensions are unlawful and in the circumstances I cannot rule that out. In which case a separate permission would be required for them, and the proposed dormer at least, given the Council's objection to its character and appearance, may well not be granted.
9. In the absence of the dormer there would be a substantial reduction in floorspace. It seems to me unlikely that the property of this reduced size would be able to house a large HMO while providing satisfactory internal living space for future occupants, and there is no evidence to the contrary.
10. Accordingly I must conclude that is not been shown that the development for which permission is sought would provide satisfactory living conditions for its future residents with regard to the provision of internal living space. In those circumstances it would be contrary to Policy CP19 of the Brighton and Hove City Plan and Policy QD27 of the Brighton and Hove Local Plan which seek to secure quality in new residential development and protect the amenity of future residents.

Other matters

11. I note the other matters in dispute between the parties, as outlined in my background paragraph. However so fundamental is my concern on the main issue above that, notwithstanding the support of some for the provision of this HMO, this alone merits dismissing the appeal.

Conclusion

12. For the reasons given above the appeal is dismissed.

R J Marshall

INSPECTOR