
Appeal Decision

Site visit made on 6 February 2018

by **S J Buckingham BA (Hons) DipTP MSc MRTPI FSA**

an Inspector appointed by the Secretary of State

Decision date: 16th March 2018

Appeal Ref: APP/Q1445/W/17/3183791

33 Baker Street, Brighton BN1 4JN

- 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 Lee of Liberty Hall Management Ltd. against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/00645, dated 23 February 2017, was refused by notice dated 26 July 2017.
 - The development proposed is change of use of existing C3 dwelling to a C4 small house in multiple occupation.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted amended drawings and I have considered whether the development would be so changed that to take them into account would deprive those who should have been consulted on the changed development the opportunity of such consultation. As the changes would comprise minor alterations to the internal layout of the scheme, I conclude that it would not. I have therefore taken these plans into account in reaching my decision.

Main Issues

3. The main issues are:-
 - the effect on the living conditions of future occupiers of the dwelling with respect to living space; and
 - the effect on the living conditions of neighbouring occupiers with respect to noise and disturbance.

Reasons

Living Space

4. The appeal building is a two storey property within a densely developed central area, in a mixture of retail use at ground floor and residential use on ground and first floors. The proposal is for conversion of the first floor flat to a small house in multiple occupation (HMO) of five rooms with a shared kitchen.
 5. The appeal development has already taken place and some of the rooms are currently occupied.
-

6. It has been put to me that the proposal does not meet the Government's Nationally Described Space Standards in respect of the floor space of the smallest bedroom. However, the Written Ministerial Statement of 25 March 2015 makes it clear that such standards can only be applied where there is a relevant current local plan policy. In this case there is no relevant current policy. However, notwithstanding this, the smallest bedroom has a small, high window and irregular floor plan. Circulation space is thus very limited and the layout is cramped.
7. The communal space in the kitchen is small and not able comfortably to accommodate more than one or two occupiers attempting to cook or eat at the same time, while the area marked as a communal space on the amended plan is no more than a hallway, with doors opening into and off it, and room only for a small sofa against a short section of wall. It is currently used for the occupiers for drying clothes and storage of items which cannot be accommodated in the rooms, but in any case would only be of sufficient size and layout to function as circulation space. While the outdoor terrace provides additional space, it would not be useable at all times of the year. The development does not therefore provide adequate communal living space.
8. Thus I conclude that the accommodation is of a poor standard in terms of the floorspace provided, and harmful to the living conditions of existing and future occupiers.
9. I have had regard to the previous appeal decisions put before me by the appellant. However, notwithstanding the conclusions of the Inspectors in these cases, the specific shortcomings of the current accommodation set out above, lead me to conclude that the circumstances are materially different. They do not therefore cause me to alter my conclusions.
10. The proposed accommodation would therefore be of a standard which would be harmful to the living conditions of future occupiers, and would therefore fail to comply with policy QD27 of the LP, which seeks to avoid development which would cause material nuisance and loss of amenity to existing and proposed occupiers.

Noise and Disturbance

11. There is a large roof terrace with space for outdoor furniture, which overlooks the rear of the open market building, and sits alongside other roof terraces along the street with which there is already a degree of mutual overlooking. The intensification of residential use would increase the number of occupants and potential visitors, and would as a result create the possibility of increased levels of noise and disturbance for neighbouring occupiers.
12. Although the HMO use has been in operation for over some time without complaints, if it is to be used by a series of short term occupiers, there is no reason why that might not change in future. While a single family dwelling might be capable of accommodating several adult occupiers, and generating similar levels of noise, it is likely that longer-term occupiers would seek to avoid falling out with their neighbours. These factors do not therefore cause me to alter my conclusion, which is that there is a possibility of harm arising from the HMO use to the living conditions of neighbouring occupiers in respect of noise and disturbance.

13. The development would as a result conflict with the provisions of policy QD27 of the LP, which seeks to avoid development which would cause material nuisance to existing and/or adjacent users, residents and occupiers.

Conclusion

14. For the reasons given above therefore, I conclude that the appeal should be dismissed.

Sarah Buckingham

INSPECTOR

