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## Appeal Decision

Site visit made on 2 January 2019

by **Tim Crouch MSc DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28<sup>th</sup> March 2019

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### Appeal Ref: **APP/Q1445/W/18/3213051**

### **114 Stanmer Villas, Brighton, BN1 7HN**

- 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 David Symons against the decision of Brighton & Hove City Council.
  - The application Ref BH2018/00523, dated 16 February 2018, was refused by notice dated 14 September 2018.
  - The development proposed is change of use from residential dwelling (C3) to six bedroom single dwelling (C3) or six bedroom small house in multiple occupation (C4).
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### Decision

1. The appeal is allowed and planning permission is granted for change of use from residential dwelling (C3) to six bedroom single dwelling (C3) or six bedroom small house in multiple occupation (C4) at 114 Stanmer Villas, Brighton, BN1 7HN in accordance with the terms of the application, Ref BH2018/00523, dated 16 February 2018, and the plans described as Location Plan 01, Block Plan 02 and Floor plans/elevations/sect proposed 02B, subject to the following conditions:
  - 1) The kitchen/lounge/dining room as detailed on plan '1807 02B' received on the 16 April 2018 shall be retained as communal space at all times and shall not be used as bedrooms.
  - 2) The development hereby approved shall only be occupied by a maximum of six (6) persons.
  - 3) Within 3 months of the date of this decision, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use within 6 months of the date of the approval and shall thereafter be retained for use at all times.

### Procedural Matters

#### *Plans*

2. Proposed plan 1807 02 was submitted with the application, setting out proposed floorplans. This included a W.C. on the ground floor. This was updated during the course of the application to 1807 02A, with a revised location of the W.C. (16 April 2018). A further version, 1807 02B was sent to the Council (27 April 2018) which removed the W.C. altogether.

3. The Council has confirmed it accepted the first amendment (1807 02A); however, it did not appear in the formal decision notice. 02B has been presented by the appellant as part of the appeal and the Council has had an opportunity to comment on it. During my site visit, I saw that the development had already substantially occurred and occupied as per plan 02B. I do not consider any interests to be prejudiced by considering 02B in this appeal. It therefore forms part of my decision.

#### *Description*

4. During the course of the application the description of development changed from "Change of use from a C3 residential dwelling to a C4 small HMO for up to 6 people" to "Change of use from residential dwelling (C3) to six bedroom single dwelling (C3) or six bedroom small house in multiple occupation (C4)". I have used this updated version in my decision.

#### **Main Issue**

5. The main issue is the effect of the proposal on the living conditions of existing occupants, with particular regard to the size of the communal space and its proximity to the rear ground floor bedroom.

#### **Reason**

6. The communal space sits to the rear of the house and comprises a kitchen across the rear elevation, opening into a dining and sitting area. There is a dining table plus 2 sofas. The kitchen opens into a small area of patio and retaining wall as the garden slopes up steeply to the rear.
7. The building has not only already been converted and occupied, but it has also been licenced for such an HMO. The Council notes this but states that the licencing regime seeks to achieve minimum standards of accommodation rather than good quality as required by planning policy QD27 of the Brighton and Hove Local Plan (BHLP). The Council has no adopted standards but refers to the 'Nationally Described Space Standards' introduced by the Department for Communities and Local Government in 2015 as useful guidelines. It does not appear, however, to include a standard for communal space.
8. I saw on my site visit that the open plan communal kitchen and living space is light and open, with internal access from the corner. There is sufficient space to circulate and for occupants to find some personal space. The layout of furniture in the plans provided is not fixed and the room dimensions give flexibility for these to be most suitably arranged by the occupants. The kitchen would allow multiple users to prepare food at the same time. Whilst there will need to be some coordination and interaction between users of the spaces, including the kitchen and accessing the rear in certain scenarios, this is an expected relationship in shared living spaces.
9. The Council has provided details of a dismissed appeal<sup>1</sup> which found the proposed communal space in that case, including its function as walkway to the garden, unacceptable. That layout was different and included a large window with doorways positioned fairly centrally. That created an uncomfortable relationship between usable floorspace and circulation. That differs from the circumstances in this appeal, which I have found to be acceptable in this case.

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<sup>1</sup> Appeal reference APP/Q1445/W/17/3180711

10. The rear ground floor bedroom is adjacent to the living space and shares a wall with the kitchen to the rear. The bedroom opens into the hallway, orientated away from the end of the communal area, which is accessed through a further, separate door. Whilst alongside the communal space, this relationship appeared acceptable and private. This is not unusual of a ground floor bedroom and, whilst under separate powers, the building has been licenced by the Council as suitable. I have no reason to consider otherwise.
11. I have been provided details by the Council of a dismissed appeal<sup>2</sup> to support its position in relation to a bedroom next to communal space. I see in that proposed layout that the bedroom was to open directly into the kitchen area. I consider that to be a materially different relationship to that before me.
12. Consequently the proposal would provide satisfactory living conditions for future residents. In this respect the proposal would comply with Policy QD27 of the BHLF, which seeks to protect the living conditions of existing and future occupiers of development.

### **Other Matters**

13. Local residents have raised concerns about a number of other matters including the loss of family housing, loss of privacy, increased noise and disturbance, additional pressure on parking and services. The officer's report considered issues of balanced communities, nuisance and amenity as well as parking. It found that the proposal would not give rise to material harm that could justify withholding planning permission. Whilst I appreciate the concerns of local people, I have no substantive evidence to cause me to come to different conclusions in relation to any of these matters.

### **Conditions**

14. The Council has suggested a number of conditions in the event that the appeal was allowed. I have considered these in the light of the tests set out in paragraph 206 of the National Planning Policy Framework and that development is substantially complete and occupied.
15. In the interests of clarity and ensuring the standard of accommodation, conditions are necessary to restrict the maximum occupancy and ensure the retention of the kitchen/living space. A condition relating to cycle storage is also necessary to encourage travel by means other than the private motor car.
16. The Council has proposed the withdrawal of permitted development rights. The Planning Practice Guidance (PPG) advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. The site is an end of terrace, with existing front dormer window and rear extension. The rear neighbour is set higher with its side elevation. It is not clear what exceptional circumstances exist and therefore I do not find it necessary.

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<sup>2</sup> Appeal reference APP/Q1445/W/17/3167023

**Conclusion**

17. For the reasons given above, I conclude that the appeal should be allowed, subject to conditions.

*Tim Crouch*

INSPECTOR