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## Appeal Decision

Site visit made on 18 December 2018

**by J Davis BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 April 2019**

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### **Appeal Ref: APP/Q1445/W/18/3204279**

### **57 Richmond Street, Brighton, BN2 9PD**

- 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 S Scott, Co-Living Spaces, against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/03937, dated 28 November 2017, was refused by notice dated 8 February 2018.
  - The development proposed is described as 'Change of use from a C3 dwelling to a C4 HMO for up to 6 people'.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the change of use from a C3 dwelling to a C4 HMO for up to 6 people at 57 Richmond Street, Brighton, BN2 9PD in accordance with the terms of the application, Ref BH2017/03937, dated 28 November 2017, subject to the following condition:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1731 01 – Existing & Proposed plans and elevations.

### **Procedural Matters**

2. The external alterations to the roof including the rear dormer did not form part of the description of development. However, the Council consider, based on their evidence, that the physical works were carried out in order to facilitate alterations to the layout to increase the occupancy of the property to five bedrooms. As such, they consider that the physical works are part and parcel of the change of use and therefore require planning permission. According to the timeline of works set out in the Council's statement, a building control application for the proposed loft conversion including dormer to rear and 3no. rooflights to front was submitted on 21 July 2017. The Building Control Notice of Passing Building Plans was issued on 3 August 2017. The Council confirm that on 28 November 2017 building control records show the above works start and also, on the same date, the planning application was received to change the use of the dwelling to an HMO. The appellant has not disputed the above timeline of events.
3. On my site visit I observed that the external alterations including the dormer window and rooflights had already taken place however the loft room and stairs leading up to it had not been decorated and did not have the appearance of ever being occupied. The other internal alterations to facilitate the change of use to a small HMO were also on-going. Having regard to the limited evidence

above I am inclined to agree with the Council's stance that the roof alterations, including the dormer, were constructed with the appeal scheme in mind and hence are part and parcel of it. In this I am in agreement with the principal approach taken in the previous appeal decisions the Council brought to my attention.

4. It is not for me, as part of this section 78 appeal, to form a view as to whether or not these works required specific planning permission from the local planning authority. I shall therefore proceed on the basis that they did. Given the submissions, notably the appellant's arguments regarding the character of the area, to do so would prejudice neither party, but clearly, in these circumstances, my approach has no bearing on any formal determination that may be subsequently sought.

### **Main Issue**

5. Consequently, I consider that the main issue is the effect of the proposal on the character and appearance of the area.

### **Reasons**

6. The appeal site comprises an end of terrace property, located on the northern side of Richmond Street. It is within an area characterised by similar, fairly standard, terraced housing.
7. No 57 Richmond Street forms part of a terrace which is characterised by rear dormer additions and other associated roof alterations. Of this terrace, it appears that six consecutive properties immediately to the west of the site have been altered at roof level. These roof additions vary in terms of their size, scale, design and use of materials. The majority of these extend across the full width of the property concerned, with little or no set back from the ridge line. As such, there is very little left of the original roof form of this part of the terrace. The rear elevation of the adjacent terrace to the east of the site is also seen in the same context as the appeal site and this terrace has also been altered significantly at roof level in a similar manner.
8. The roof dormer extends across the full width of the rear of the property and is level with the ridge line. It is flush with the neighbouring dormer and is set in marginally from the end flank elevation of the terrace.
9. Policy QD14 of the Brighton and Hove Local Plan (2005) states that planning permission for extensions or alterations to existing buildings including new formations of rooms in the roof, will only be granted if the proposed development 'is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area' (among other criteria). The rear dormer is in keeping with adjoining properties which have been extended at roof level in a similar manner and given this context, it would not result in harm to the character of the surrounding area. Whilst relatively large, the dormer is of an appropriate appearance given its context and the dormer does not result in harm to the character and appearance of the existing property.
10. The Council also refer to the guidance contained with Supplementary Planning Document 12 (SPD). Whilst not forming part of the statutory development plan, the SPD gives guidance in respect of extensions and alterations. In general terms, this guidance states that box dormers are inappropriate design

solutions and that supporting structures for dormer windows should be kept to a minimum as far as possible to avoid a 'heavy' appearance and there should be no large areas of cladding either side of the window or below. Whilst the dormer at No 57 would not strictly comply with this guidance, the SPD also recognises that where a terrace or group was originally designed without dormers, but over the years a majority of the buildings now have them, new dormers may be acceptable provided their scale, design and positioning is sympathetic to the continuity of the terrace/group. Having regard to the context of the appeal site, the dormer would be in keeping and sympathetic to the remainder of the terrace and is acceptable in this regard.

11. Overall, I conclude that the dormer does not have a harmful effect on the character and appearance of the surrounding area and as such there is no conflict with Policy QD14 of the Brighton and Hove Local Plan (2005).

*Other matters*

12. The Council comment within their appeal statement that the appellant has not provided evidence as to whether the works to adjacent properties have the relevant consents or when they were carried out. Whilst I acknowledge this, the remainder of the terrace and the adjacent terrace to the east clearly form part of the context of the appeal site. I observed on my site visit that the majority of these roof alterations have the appearance of being reasonably long established.
13. With regard to interested parties' comments regarding the principle of the use and the suitability of the site for student housing / multiple occupation, I note from the Officer's report that the proposal complies with the Council's relevant policy in this respect, which seeks to support mixed and balanced communities. Moreover, I have not been presented with any substantive evidence regarding pressure on local services and therefore place little weight on this matter.
14. With regard to the comments concerning privacy, I do not consider that the dormer window would result in any material overlooking of nearby properties, particularly given the intervening distances. The issue in respect of overlooking from the existing first floor terrace is not a matter which falls under the remit of this appeal.
15. Some local residents have raised concern regarding potential noise and disturbance from both within and outside of the building. Although the change of use to a HMO would be likely to intensify the occupancy and use of the building, with up to six occupiers this would not be of a level which would be over and above that expected within a residential area. I do not consider that the proposal would result in significant harm in this respect. Moreover, the proposed room sizes and communal facilities are adequate in relation to the intended use.
16. With regard to the issues raised relating to parking, the Council have not raised any concerns in terms of parking provision or parking pressures and in the absence of any substantive evidence, I conclude that the proposal is acceptable in this respect.
17. It is likely that there would be no change to existing arrangements in terms of refuse and recycling and the proposal is acceptable in this respect.

18. Finally, the fact that the development has already begun has had no bearing on my decision.

*Conditions*

19. I have had regard to the Council's suggested conditions. As the roof alterations including the roof dormer have already been constructed it is not relevant to impose the standard implementation condition. I have imposed an approved plans condition for clarity. Whilst the Council recommend a condition to remove permitted development rights in respect of Classes A-E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) I am mindful of the advice within the National Planning Policy Framework (2019) which states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. I do not consider that there is clear justification in this particular case.

**Conclusion**

20. For the reasons given above I conclude that the appeal should be allowed.

*J Davis*

INSPECTOR