
Appeal Decision

Site visit made on 22 July 2015

by Y Wright BSc (Hons) DipTP MSc DMS MRTPI

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

Decision date: 3 August 2015

Appeal Ref: APP/Q1445/W/15/3006221
89 Upper Lewes Road, Brighton BN2 3FF

- 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 Standing against the decision of Brighton & Hove City Council.
 - The application Ref BH2014/02977, dated 4 September 2014, was refused by notice dated 30 December 2014.
 - The development is change of use from small HMO (C4) to large HMO (Sui Generis) only.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from small HMO (C4) to large HMO (Sui Generis) only at 89 Upper Lewes Road, Brighton BN2 3FF in accordance with the terms of the application, Ref BH2014/02977, dated 4 September 2014, and the plans numbered 3493.EXG.01 and 3493.EXG.10 revision A.

Procedural Matter

2. The Council's decision notice includes reference to plan number 3493.EXG.10. However both parties have confirmed that the decision was based on plan number 3493.EXG.10 revision A. I consider the appeal on this basis.

Main Issue

3. The main issue is whether or not the development provides acceptable living conditions for its occupants.

Reasons

4. The property is already being used as an 8 bedroom house in multiple occupation (HMO). It is a three storey (basement, ground and first floor) mid terraced dwelling with an additional loft conversion. The property is located on a site which slopes significantly from front to back resulting in the rear of the basement level having a small enclosed yard which is used for sitting out and cycle parking.
5. I note that the loft conversion includes a dormer window to the rear and roof lights to the front. However these do not form part of the appeal before me and I therefore do not consider them in my decision.

6. The property has been reconfigured internally to create 3 additional bedrooms (1 in the basement and 2 in the loft) and the kitchen has been extended into the front basement bedroom to create a dining area. In addition the previous basement bathroom, which is now a bedroom, has been relocated to the ground floor resulting in the front bedroom on this level being reduced in size. The first floor remains unchanged.
7. I note that both parties agree that the basement front bedroom is slightly smaller than shown on the submitted plans as the stud wall adjacent to the dining area protrudes around 200mm further in to the bedroom. However on my site visit I saw that the difference is slight and does not reduce the size of the room or the space within it by a significant degree. Although this room has an irregular shape it is not unduly small when compared to the size of some of the other bedrooms within the property. The room includes a double bed, shelving, a desk and clothes storage and I saw that the existing layout provides adequate usable space for the occupant.
8. The basement rear bedroom contains a built in wardrobe, its own sink, double bed, desk and drawers. I saw that due to the layout of the room, the space is adequate and usable by the occupant.
9. The loft bedrooms also provide adequate space for double beds, wardrobes, drawers and desks. Although I recognise that only around 2.8 sqm of the front bedroom would have a minimum height of around 2 m due to the sloping roof, I saw on my visit that due to the layout of the room, this provided sufficient usable space for the occupier that was not overly restrictive.
10. I note that the other bedrooms within the property provide similar amounts of furniture and sufficient usable space for the occupants. The bathroom facilities are also adequate. Although the kitchen/dining area is the only communal area within the property, I saw on my site visit that these facilities are adequate and provide sufficient space for the preparation and eating of meals. Although I recognise that it would be difficult for all 8 occupants to cook and eat at the same time, I consider that this would be an unlikely occurrence, as occupants within HMOs tend to be independent from each other and likely to use such facilities at different times of the day.
11. As a small HMO the property can lawfully house 6 occupants so although the development adds 3 further bedrooms to the property, its use increases by 2 occupants. I do not consider that this causes a significant intensification in use of the property. I also note that the Council does not have minimum internal space standards. Moreover the development has been granted a HMO licence for 8 bedrooms by the Council's Private Sector Housing Department which states that the house 'fully meets the department's standards for such use'. Whilst the HMO licence is a separate regulatory matter, it nevertheless reinforces my view that the standard of accommodation within the property is acceptable. Consequently I conclude that the living conditions of the existing occupiers of the property are not adversely affected and as such the development is in accordance with Policy QD27 of the Brighton and Hove Local Plan 2000 which includes seeking development that does not cause loss of amenity to existing occupiers.
12. The appellant draws attention to an appeal decision for a 7 bedroom HMO within the area (APP/Q1445/A/14/2214317), which was approved by the Inspector in May 2014. Although a copy of the appeal decision has been

provided I do not have full details of this development so I cannot be sure that it is directly comparable. The Council refers to another HMO development on Pevensey Road stating that this provided larger, better proportioned bedrooms, a larger living area and one less bedroom than the appeal property. However full details of this development are also not provided and I do not know the circumstances that applied at the time of its consideration. Nevertheless I agree with the Council that the existence of this and other similar developments within the surrounding area do not set a precedent, as each case is considered on its merits. I determine this appeal on its own individual merits.

13. In reaching my conclusion I have considered concerns that have been raised about increased noise and the amount of refuse and recycling produced and its storage. However these issues do not form part of the Council's case and I have no evidence before me to demonstrate that noise, refuse and recycling problems have occurred. I therefore find that the living conditions of the occupants of neighbouring properties have not been prejudiced. I have also taken into account the letters of support provided by the occupants of the appeal property.

Conditions

14. Although no conditions have been suggested by the Council, the Highway Authority has proposed one to ensure that satisfactory facilities for the parking of cycles are provided at the property. As the development is already in place including cycle parking provision, this condition is unnecessary and I therefore do not include it.

Conclusion

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

Y Wright

INSPECTOR