

Appeal Decision

Site visit made on 2 May 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 16 May 2017

Appeal Ref: APP/Q1445/W/17/3169810

11 Cross Street, Hove BN3 1AJ

- 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 Miss Charlotte Sommers of Gladstone Sommers Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05314, dated 16 September 2016, was refused by notice dated 25 January 2017.
 - The development proposed is change of use from small House in Multiple Occupation (C4) to large House in Multiple Occupation (sui generis).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from small House in Multiple Occupation (C4) to large House in Multiple Occupation (sui generis) at 11 Cross Street, Hove BN3 1AJ in accordance with the terms of the application, Ref BH2016/05314, dated 16 September 2016, subject to the following conditions:
 - 1) The kitchen and lounge area as detailed on drawing no. 1179/04 received on 16 September 2016 shall be retained as communal space at all times and shall not be used as a bedroom.
 - 2) The development hereby approved shall only be occupied by a maximum of seven (7) persons.

Preliminary Matter

2. The development has been completed and I was able to view inside the property during my visit.

Main Issues

3. The main issues are:
 - Whether prospective occupiers of the house in multiple occupation would enjoy satisfactory living conditions, having particular regard to the suitability of the internal spaces; and
 - The effect of the proposed large House in Multiple Occupation on the living conditions of occupiers of surrounding properties with particular regard to noise and disturbance.
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Reasons

Living conditions of occupiers

4. The appeal premises now comprise seven bedrooms with shared bathroom and two shower rooms, along with communal kitchen on the ground floor and communal living/dining room on the lower ground floor. The previous use was as a House in Multiple Occupation (HMO) under use class C4 with five bedrooms. The previous living room on the ground floor has been converted to provide two bedrooms, the top floor bathroom is now a bedroom and the lower ground floor rear bedroom now forms the living/dining room, with the en-suite bathroom now converted to provide the two shower rooms shared between the residents.
5. Each of the bedrooms contains a bed, small desk and a wardrobe, with most also having a washing basin. There is space in all the bedrooms for some circulation space and, despite varying in size, none of the bedrooms felt cramped.
6. My attention has been particularly drawn to the lower ground floor, front ground floor and rear second floor bedrooms that the Council suggest are below the Nationally Described Space Standards. Planning Practice Guidance (Reference ID: 56-018-20150327) confirms that the absence of a Local Plan policy relating to minimum room sizes means the Nationally Described Space Standard cannot be applied to the proposal. I note that the lower ground floor and front ground floor bedrooms were existing bedrooms when the house operated as an HMO under use class C4. The rear second floor bedroom is larger than those two rooms and, whilst modest, provides adequate living accommodation.
7. The lower ground floor bedroom and living room have limited window space, which reduces the amount of light available for occupants, but both were used as bedrooms prior to the recent alterations to the building. There is no outdoor amenity space at the property, but neither was there prior to the changes being made. As a result, the alterations carried out have not materially altered the quality of living accommodation available for occupants.
8. I understand that the property has been licenced for occupation for up to 7 people. The legislation regarding licences is separate from planning regulations that seek to ensure an acceptable standard of living conditions for residents. However, provision of a licence would support my view that the accommodation provides adequate living conditions for residents.
9. For the above reasons, I conclude that the accommodation at the property provides adequate living conditions for the intended number of occupants. As such, the proposal complies with Policy QD27 of the Brighton & Hove Local Plan (LP) that seeks to ensure adequate living conditions for occupants of properties.

Living conditions of neighbouring occupiers

10. Given the provision of two additional bedrooms, the maximum number of residents of the property has increased from five to seven. The additional residents result in a more intensive use of this terraced property, with more comings and goings, and there could be changes to patterns of behaviour and

consequential disturbance that could lead to additional noise and disturbance to occupiers of surrounding properties, particularly the attached neighbours.

11. Policy CP21 of the Brighton & Hove City Plan Part One seeks to address the issues caused by a concentration of HMOs in parts of the City, including those set out above and with reference to government research justifying that concern, by restricting the overconcentration of HMOs within an area. In this instance, the proposed development complies with that policy due to the limited number of HMOs in the surrounding area. However, additional policies, including Policies QD27 and SU10 of the LP seek to protect the living conditions of occupiers of existing or adjacent occupiers including arising from the effect of noise and disturbance. As a result, it is possible that conversion of a property to a larger HMO could comply with Policy CP21 but not with Policies QD27 and/or SU10 of the LP.
12. The area around Cross Street is a mix of uses, including public house, restaurants and shops, hotels, bed and breakfast accommodation and residential development. Consequently, this is an active part of the town where there is an existing level of noise and disturbance from activity associated with those uses, such that the extra accommodation provided does not materially add to this.
13. I note that previous works to the property and tenants living in the property have been disruptive to neighbouring occupiers and that the manager of the property has been difficult to contact. However, limited evidence has been provided to substantiate these matters and there is no reason to consider that the additional residents would necessarily materially increase noise and disturbance to neighbouring occupiers.
14. I conclude that, taking account of the site context and limited number of additional occupiers, the amount of additional noise and disturbance does not materially affect the living conditions of neighbouring occupiers. As such, the proposed development would comply with Policies QD27 and SU10 of the LP.

Other matters

15. I understand that the rear extension was constructed without the benefit of planning permission, but the Council suggest that this has become lawful through the passage of time. The extension may have been built over the boundary to an adjoining property and with a door opening onto land outside the ownership of the appellant, but ownership matters are a private matter between the relevant parties and not within my jurisdiction. The Council refer to concerns as to emergency exit from the ground floor rear bedrooms that are accessed via the communal kitchen, but this is subject of separate regulations. Two additional residents would have limited effect on provision of sewage, rubbish and recycling facilities. I note that parking in the area may be difficult, but the property is within a Controlled Parking Zone that constrains opportunities for additional parking and it is well located in relation to services and facilities. It is suggested that the development may form a precedent for additional HMOs in this area, but future applications would be assessed on their own merits.

Conditions

16. A condition is necessary to retain the communal space as such and limit occupancy to seven in order to ensure a suitable standard of accommodation for residents of the property. I have not included a condition removing permitted development rights as I do not consider it to be necessary. Such rights should be removed only in instances of specific and precise justification. I find no exceptional circumstances in this case such as to warrant the wholesale removal of these rights.

Conclusion

17. For the above reasons and taking into account all other matters raised I conclude that the appeal should succeed.

AJ Steen

INSPECTOR