



Appeal Decision

Site visit made on 11 December 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: 13th December 2017

Appeal Ref: **APP/Q1445/W/17/3184183**

103 Halland Road, Brighton BN2 4PG

- 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 George Birtwell against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/02168, dated 27 June 2017, was refused by notice dated 23 August 2017.
 - The development proposed is a change of use of an existing C4 small house in multiple occupation to a Sui Generis large house in multiple occupation.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) Whether or not the proposal would provide satisfactory living conditions for future occupants;
 - b) The effect of the change of use on the provision of a mixed and balanced community in the area;
 - c) The effect of the change of use on the living conditions of occupants of neighbouring properties in relation to noise and disturbance.

Reasons

Living conditions

3. No 103 is a semi-detached house which has been substantially extended through prior approval for a single-storey rear extension, Ref: BH2016/06343, combined with permitted development rights and a Certificate of Lawfulness for a loft conversion, Ref: BH2017/00223. The alterations and enlargements have been implemented and the house now provides a total of nine bedrooms across three floors; three on the ground floor, four on the first floor and two within the loft conversion. Eight of these rooms appeared to be occupied at the time of my site visit.
4. The property has two shower rooms on the ground floor, each of which includes a toilet and washbasin. There is a toilet/washbasin on the second floor. There is a communal area towards the rear of the ground floor which comprises a kitchen/dining room and a separate living room.

5. The Council does not have an adopted policy which requires compliance with the government's minimum space standards. However, the bedrooms vary in size from 7.5sq.m to 9.7sq.m, which accords with the Nationally Described Space Standards. The bedrooms in the loft space have some areas of restricted headroom which somewhat limits their size, although the furniture has been arranged to maximise the available space. In addition to a bed all the rooms have reasonable access to light, some storage space and a desk for studying. The Council therefore considers the bedrooms to be acceptable and I see no reason to take a different view.
6. The communal areas on the ground floor appear to be well-arranged and well-equipped. There is adequate circulation space and it would be possible for all nine residents to sit together at the dining table. Nevertheless, the dining area is rather enclosed and the living room is not large enough to permit all nine occupants to sit and watch the TV at the same time. However, I consider this to be an unlikely scenario, as the residents are more likely to cook, eat and socialise individually or in small groups. On this basis I am satisfied that the communal areas, although not generous, would be adequate.
7. However, I have significant concerns about the provision of washing facilities. Everyone would have to make use of just two showers on the ground floor. In my view this arrangement would be impractical for nine individuals, particularly at the start of the day. If both showers were in use there would only be one other toilet available for use by seven people. Its top floor location would not be convenient for most residents. The absence of any bathroom facilities on the first floor means that occupants of the four bedrooms on this floor would either have to go up or down stairs to access a toilet and downstairs to shower. I consider this to be unsatisfactory.
8. Both shower rooms are small, but particularly the one opposite two of the ground floor bedrooms. Comings and goings to this shower room are likely to cause disturbance for the occupants of these bedrooms. Not only is its floor area restricted, but its door opens into the hall which is the main thoroughfare from all the bedrooms through to the kitchen/living room. This could cause potential conflict between occupants. In my view the washing and toilet facilities in the property are not only minimal in terms of their number, but are poorly arranged, cramped and insufficient to serve the needs of nine residents.
9. I note that the Council has granted an HMO license for the property as a nine-bed, nine-person HMO. However, it does not necessarily follow that the accommodation is acceptable in planning terms, since HMO licensing is primarily a means of securing minimum standards of accommodation that are fit for human habitation. The planning system has wider responsibilities for ensuring that the quality of accommodation provides a good standard of amenity for occupants throughout the lifetime of the development.
10. Taking all these factors into consideration, I conclude that the proposal would provide unsatisfactory living conditions for future occupants, arising from the poor provision of washing and toilet facilities. It would therefore be contrary to saved Policy QD27 of the Brighton & Hove Local Plan (Local Plan), which seeks to protect the living conditions of the city's residents. It would also conflict with one of the core principles of the National Planning Policy Framework (the Framework), which requires development to always seek to secure a good standard of amenity for all existing and future occupants.

Mixed and balanced communities

11. Prior to its enlargement No 103 had been in use as an HMO since 2004. The evidence suggests that it had been occupied by up to five students. The current proposal would increase this to nine adults.
12. Policy CP21 of the Brighton & Hove City Plan Part One (City Plan) aims to actively manage the location of new HMOs. This is part of its approach to providing for the demand for student accommodation whilst also ensuring mixed, healthy and inclusive communities. It states that applications for change of use to a Class C4 or sui generis HMO will not be permitted where more than 10% of dwellings within a 50m radius of the application site are already in use as an HMO.
13. The percentage of properties in HMO within 50m of the appeal site is 18.75%. This figure has not been disputed. The introduction of a new HMO would therefore directly conflict with the terms of Policy CP21. However, the change of use proposed here is from a small to a larger HMO, rather than the addition of a new one. The number and proportion of HMOs in the area would therefore remain unchanged, although there would be an intensification of the existing use. Since the house has not been used as a family home for more than ten years, the proposal would not adversely affect the supply of family housing. As there would be no increase in either the number or the proportion of HMOs in the area arising from the proposal there can be no conflict with Policy CP21.
14. I therefore conclude that the proposal would not be detrimental to the provision of a mixed and balanced community in the area around the appeal site. In this respect the proposal would comply with Policy CP21 of the City Plan.

Noise and disturbance

15. As a small HMO No 103 could be occupied by up to six people. There was no substantive evidence to suggest that its previous use by five people had caused unacceptable noise and disturbance either to immediate neighbours, or others residents in the surrounding area, at any time since 2004.
16. The change of use would lead to an intensification of the use with as many as four additional occupants. The number of comings and goings from the property can be expected to rise with the increased occupancy. The intensification could lead to significantly more instances of noise disturbance to near-by properties, a matter of concern to local Members and residents. However, in the absence of evidence to demonstrate that problems of this nature had been experienced at or near the appeal site, I am not persuaded that the additional three or four residents in this case would result in a material deterioration in the amenity of the neighbourhood as a whole.
17. I therefore conclude that the enlargement of the HMO would not unacceptably harm the living conditions of adjoining occupiers arising from additional noise and disturbance. In this respect the proposal would comply with saved Policies QD27 and SU10 of the Local Plan which, amongst other things, seek to prevent the city's residents being adversely affected by noise nuisance.

Other Matters

18. The appellant¹ and the Council² referred me to a number of other appeal decisions relating to the conversion of small HMOs to larger ones in the Brighton area. These decisions related to the same matters that are in dispute in respect of the appeal proposal, namely the effect on balanced and mixed communities, noise and disturbance of neighbours and the quality of accommodation for future occupants. I have had regard to these decisions, but note that in each and every case the Inspector's conclusions related to site specific circumstances. I therefore find none of them to be directly comparable with the proposal before me, which I have determined on its individual planning merits.

Conclusions

19. Drawing the threads of my assessment together I have found that the proposal would not increase the concentration of HMOs in the area or cause unacceptable harm to the living conditions of neighbours or occupants of other nearby properties. However, the absence of harm in these respects is not a positive factor in favour of the development.
20. However, I was not satisfied that the scheme would provide a good standard of amenity for future occupants, due to the inadequacies of the bathroom facilities.
21. For this reason, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR

¹ Appellant referred to: APP/Q1445/W/16/3150798, APP/Q1445/W/17/3167367 and APP/Q1445/W/17/3140528

² Council referred to: APP/Q1445/W/16/3157915, APP/Q1445/W/16/3149843, APP/Q1445/W/17/3167023, APP/Q1445/W/17/3168211, APP/Q1445/W/15/3140558 and APP/Q1445/W/15/3139159