
Appeal Decision

Site visit made on 26 October 2018

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 14 November 2018

Appeal Ref : APP/Q1445/C/18/3195091

Land at 103 Halland Road, East Moulsecoomb, Brighton, BN2 4PG.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Rivers Birtwell Ltd against an enforcement notice issued by Brighton & Hove City Council.
- The notice was issued on 2 January 2018.
- The breach of planning control as alleged in the notice is without planning permission the material change of use from 6 bedroom House in Multiple Occupation (C4) to a 9 bedroom House in Multiple Occupation (sui generis).
- The requirements of the notice are to cease the use of the property as a large House in Multiple Occupation (sui generis).
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out in the Formal Decision.

Ground (a) appeal and deemed application

Main Issue

1. The main issue in the determination of this appeal is the effect of the development on the living conditions of current and future occupiers of the property with particular regard to adequacy of accommodation.

Living conditions

2. The appeal site is a two storey semi detached property which has been substantially extended and is located in a mainly residential area. The property has a licence for a 9 bed 9 person House in Multiple Occupation (HMO). An application for planning permission for the development already carried out has been refused on appeal.
3. The development plan (including the Brighton & Hove City Plan Part One and saved policies in the Brighton & Hove Local Plan (the Local Plan)) mirrors the National Planning Policy Framework (the Framework) in emphasising the need for development to provide an adequate standard of accommodation for occupants. Policy QD27 of the Local Plan provides that planning permission will not be granted where it would cause material nuisance or

loss of amenity to proposed, existing or adjacent users, residents or occupiers.

4. The reasons for issue of the notice include the effect of the development on the provision of a mixed and balanced community in the area and the impact of the level of activity on the living conditions of nearby residents. However, in its representations the Council accepts that following the decision on appeal their only concern relates to washing and toilet facilities for occupiers.
5. The appeal site comprises nine bedrooms with shared bathroom, shower room and toilet together with a communal living room including kitchen. I agree with the previous Inspector on appeal that the development does not provide a good standard of amenity for occupants due to the inadequacy of the bathroom facilities. The washing and toilet facilities are insufficient for the number of occupiers and poorly arranged to serve the needs of nine residents. The development causes harm to the living conditions of current and future occupiers with regard to the adequacy of accommodation and is contrary to the development plan (including policy QD27 of the Local Plan) and the Framework.
6. In its representations the Appellant proposes a new scheme shown on drawing no. SG.02.B dated 28 June 2017 (the alternative scheme). The alternative scheme includes two further toilets and an additional shower. It remains within the description of development and therefore within the remit of the deemed application. I note that the Council agrees that implementation of the alternative scheme would remedy the identified harm and I have no reason to conclude otherwise. I therefore shall grant planning permission for the alternative scheme.
7. I have considered whether conditions should be imposed on the permission and have taken into account the Planning Practice Guidance. The Council proposes four conditions in the event that the appeal is allowed.
8. The first proposed condition restricts the occupation to a maximum of 9 person. I agree that this is necessary and reasonable to ensure that bathroom facilities are appropriate to the number of occupants. The second condition restricts permitted development without the consent of the Council and the third condition concerns the provision of cycle parking. I agree that these are reasonable and necessary and accord with the development plan. The fourth condition concerns the alternative scheme and requires the revised layout to be retained. I agree that this is necessary and reasonable and have amended the text to state that the scheme will be implemented within a 3 month period to ensure that it is precise and enforceable.
9. For the reasons given above I conclude that the ground (a) appeal should succeed and planning permission will be granted. The appeals under grounds (f) and (g) do not therefore need to be considered.

Formal Decision

10. The appeal is allowed and the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the use of the land at 103 Halland Road, East Moulsecoomb, Brighton, BN2 4PG as shown on the plan attached to the notice as a nine bedroom House in Multiple Occupation subject to the following conditions:
- 1) The development hereby approved shall be occupied by a maximum of nine persons;
 - 2) No extension, enlargement, alteration or provision within the curtilage of the dwellinghouse as provided for within Schedule 2 Part 1 Classes A-E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the local planning authority;
 - 3) Within 3 months of the date of this approval, details of secure cycle parking facilities for the occupants of and visitors to the development shall be submitted and approved in writing by the local planning authority. The approved facilities shall be fully implemented and made available for use within one month of the agreement of details and shall be retained thereafter for use at all times;
 - 4) Within 3 months of the date of this decision the layout shown on drawing SG 02.B dated 28 June 2017 shall be fully implemented and shall be thereafter retained.

S. Prail

Inspector

