
Appeal Decision

Site visit made on 30 January 2019

by C J Leigh BSc(Hons) MPhil MRTPI

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

Decision date: 15th February 2019

Appeal Ref: APP/Q1445/W/18/3209714
43 Stanmer Park Road, Brighton, BN1 7JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr James Pyper against Brighton & Hove City Council.
 - The application Ref BH2018/01971 is dated 15 June 2018.
 - The development proposed is the change of use from C3 single dwellinghouse to C4 HMO (3 to 6 occupants).
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Procedural matters

1. The application form submitted to the Council provided the description of the proposed development as set out above. The Council failed to determine the application in the prescribed period, but in their subsequent Appeal Statement and Delegated Report changed the description of the proposed development. The Council also states that, had they been in a position to determine the application, the reason would have related to external alterations to the roof that, they say, has facilitated a change of use to a 7-bedroom HMO and that a rear dormer is harmful to the character and appearance of the area.
2. The application did not seek permission for a 7-bedroom HMO, nor a rear dormer. The plans submitted with the application did not show those details. I have assessed the appeal on the application submitted to the Council that they failed to determine, and the material submitted with that application. I shall therefore not consider the roof alterations or dormer any further. My procedural findings on this matter do not affect any future considerations by the local planning authority.

Decision

3. The appeal is allowed and planning permission is granted for the change of use from C3 single dwellinghouse to C4 HMO (3 to 6 occupants) at 43 Stanmer Park Road, Brighton, BN1 7JL in accordance with the terms of the application Ref BH2018/01971 is dated 15 June 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby approved shall only be occupied by a maximum of six persons.
 - 3) The development hereby approved shall be implemented in accordance with the proposed layout detailed on the floorplan 1197/05A and shall be retained as such thereafter. The room annotated as communal shall be
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retained as communal space and shall not be used as bedrooms at any time. The bedrooms shown shall be retained in the form shown on the plans and not subdivided.

- 4) The development hereby permitted shall be carried out in accordance with the approved plans 1197/01, 1197/02 & 1197/05A.

Main issues

4. The main issue in this appeal is whether the proposed change of use would retain a suitable mix of housing in the community and provide satisfactory living standards for future occupants. A further issue is the effect on residential amenity.

Reasons

5. Policy CP21 of the Brighton & Hove City Plan (2016) sets out the circumstances in which the change of use of properties to provide HMOs will be allowed, with the objective of the Policy seeking to provide communities that are mixed, healthy and inclusive. Part ii) of the Policy allows for such changes of use provided certain criteria are satisfied. The Council's Delegated Report states that these criteria are satisfied, and so there is no conflict with Policy CP21.
6. The submitted drawings show internal alterations to the property, and the bedrooms and communal space resulting from these changes would provide satisfactory accommodation for future occupants in terms of layout, size and outlook. The Council are satisfied with this matter, and I saw at my site visit that the standard of accommodation would be good.
7. Thus, on the main issue, I consider that the proposed change of use would retain a suitable mix of housing in the community and provide a satisfactory standard of accommodation. The proposals therefore accord with Policy CP21.
8. The compliance of the change of use with Policy CP21 relating to the concentration of HMOs in the area indicates that the locality is not under significant strain from non-family residential properties. The use of the house by unrelated adults will give rise to comings-and-goings and different patterns of behaviour. However, this level of use in an established tightly built-up area is unlikely to give rise to an appreciable level of noise disturbance to existing residents. Thus, there would not be any conflict with Policy CP21 of the City Plan or Policy QD27 of the Brighton & Hove Local Plan 2016, which seek to protect the amenity of residents.

Conclusions and conditions

9. The appeal is therefore allowed. The Council have suggested a number of conditions in the event of the appeal being allowed. One would restrict the occupation on the property to a maximum of five persons. However, the application to the Council was for up to 6 occupants, and the submitted drawings show 6 occupancy (4 single bedrooms and 1 double bedroom), and the bedroom sizes and communal space is suitable for 6 occupants. I consider it reasonable and necessary to have a condition that controls the number of occupants in order to regulate the use of the property, and so I have attached a modified condition.
10. The Council's suggested condition requiring retention of the layout shown on the approved plans is reasonable and necessary, to ensure that the use of the

property and the layout of bedrooms and communal space remain for the 6 occupants, and so retain a good standard of living accommodation and amenity. I do not agree that future occupiers should be allowed to arrange the property as they see fit, as a different layout may affect these matters of living conditions and amenity, and the local planning authority should be able to regulate such issues.

11. I concur with the appellant that there are not the exceptional circumstances necessary to remove permitted development rights: the property is a typical residential one in an area of similar houses, and the normal parameters of the permitted development rights limit adverse effects on the area or to neighbouring residents.
12. Finally, I have attached a condition specifying the relevant drawings as this provides clarity and certainty.

C J Leigh

INSPECTOR

