



Appeal Decision

Site visit made on 16 October 2017

by **Nicola Davies BA DipTP MRTPI**

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

Decision date: 26 October 2017

Appeal Ref: APP/Q1445/W/17/3180097
387 Portland Road, Hove BN3 5SG

- 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 Stephen Hardwick against Brighton & Hove City Council.
 - The application Ref BH2017/00758, is dated 3 March 2017.
 - The development proposed is change of use of an existing C4 House in Multiple Occupation to a Sui Generis Large House in Multiple Occupation.
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Decision

1. The appeal is dismissed and planning permission for change of use of an existing C4 House in Multiple Occupation (HMO) to a Sui Generis Large HMO is refused.

Preliminary Matters

2. Internal building works within the ground floor rear room were underway at the appeal site at the time of my visit. From what I observed those works were in a different position to those internal ground floor works subject to this appealed development. For the purposes of clarity I have considered and determined this appeal on the basis of the proposed layout as shown on drawing number 246/04.

Main Issue

3. This appeal has been lodged following the Council's failure to determine the planning application. The Council in their appeal statement has put forward a reason for refusal had it been in a position to determine the application. The proposal would involve the conversion of the existing living room into a bedroom. This would reduce the shared communal space within this HMO for both existing and future occupiers. Although it is also proposed to enlarge the kitchen the Council consider that occupiers of a seven bedroom HMO that could be occupied by up to fourteen unrelated adults would not be provided with an acceptable standard of accommodation.
4. I therefore consider the main issue relating to this appeal is whether the development provides acceptable living conditions for its occupiers.

Reasons

5. The property is subject to a HMO licence under separate provisions to those of the planning system. The local planning authority has not adopted space

standards for HMOs for planning purposes. However, the appellant asserts that the seventh bedroom and communal space meets the only relevant room size standards adopted by the local planning authority under saved Local Plan Policy HO14. That policy relates to standards set out in the Housing Acts. The appellant contends that this policy should be given weight in planning decisions. Nonetheless, the Council asserts that the local planning authority seeks to secure a higher standard of accommodation which would ensure good quality living conditions for occupiers than that of the bare minimum fit for human habitation as secured by the licencing requirements.

6. The proposal would involve the conversion of the existing living room to a bedroom and the enlargement of the existing kitchen. The Council has indicated that the resulting size of the kitchen would be 12m² but this space would also incorporate work surfaces and cupboards so the usable floor space would be less. Nevertheless, the space could accommodate a small dining table.
7. The appellant argues that the HMO would not be occupied by more than seven people. This level of occupancy could be controlled either by planning condition or through licensing controls. It is unlikely that all occupants, whether that is seven or fourteen, would want to use the kitchen and eating area at the same time. However, there would be no space other than the kitchen for sitting, relaxing and socialising. The limited space within the kitchen would not comfortably accommodate groups of occupiers and certainly would not accommodate up to seven people at any one time. Overall the communal living space for the occupants of the property would be extremely limited and the kitchen would not function as a communal space.
8. I note that each bedroom contains a kitchenette and en-suite bathroom, which allows for an element of independent living. However, these rooms are not adequate in terms of size to facilitate an independent flat. The existing living room would be the main communal living space for the occupiers. Without such a space occupiers would be largely confined to their bedrooms. I do not consider this would ensure good quality living conditions for future occupiers.
9. The appellant has highlighted that the appeal property would provide 191m² of internal floor space that would exceed the minimum standard set for a six bedroom, seven to eight-person, three-storey property as required by the national technical housing standards. However, these standards are set for new build housing and consequently can only carry limited weight in the planning consideration of this case. As set out above, I find the living accommodation inadequate in this instance.
10. For these above reasons, I conclude that the proposed development would not provide acceptable living conditions for the occupiers. As such, the proposal is contrary to Policy QD27 of the Brighton and Hove Local Plan that seeks to ensure adequate living conditions for occupiers of properties.

Conclusions

11. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR