



Appeal Decision

Site visit made on 24 October 2017

by **S J Papworth DipArch(Glos) RIBA**

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

Decision date: 3 November 2017

Appeal Ref: APP/Q1445/W/17/3178481

47 Islingword Road, Brighton BN2 9SF

- 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 Mrs Beatrice Dorman against Brighton & Hove City Council.
 - The application Ref BH2018/06323, is dated 2 December 2016.
 - The development proposed is change of use from six-bedroom house in multiple occupation (C4) to seven-bedroom house in multiple occupation (Sui Generis) with associated alterations.
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Decision

1. I allow the appeal and grant planning permission for change of use from six-bedroom house in multiple occupation (C4) to seven-bedroom house in multiple occupation (Sui Generis) with associated alterations at 47 Islingword Road, Brighton BN2 9SF in accordance with the terms of the application, Ref BH2018/06323, dated 2 December 2016, and the plans submitted with it, subject to conditions 1) to 4) on the attached schedule.

Reasons

2. Whilst the Council did not make a decision within the prescribed period, it is clear from their Appeal Statement that had they done so, a refusal would have been issued based on two of the bedrooms providing cramped and oppressive living accommodation; the layout also providing little in the way of communal living areas, with a small kitchen which was considered insufficient for up to 9 occupants; and a cramped and gloomy lounge/diner. The Statement continues with the view that the living accommodation was considered to be detrimental to the amenity of current and future occupiers and contrary to the objectives of Policy QD27 of the Brighton and Hove Local Plan. The main issue at appeal is therefore whether the alterations which have been carried out provide acceptable living conditions, having regard to the Development Plan and other material considerations.
3. Policy QD27 states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health. The Council has confirmed that there would be no adverse effect or policy objection to the change with regard to the local area, concentration of uses or other issues.

4. The Council also refers to the '*Nationally Described Space Standards*' published by the Department of Communities and Local Government, which states that a single room should have a minimum of 7.5m² of usable floor space, and compares this with two of the bedrooms which measure 7.1m². The appellant points out that this standard is concerned with new-build and that the two bedrooms in question are unaltered from the lawful Class C4 use. It appears that Inspectors considering similar appeals in the City have voiced support for the standards, but they have not been adopted into local policy or a Supplementary Planning Document, and hence are a material consideration only. The Council states that they provide a useful guideline on acceptable room sizes that would offer occupants useable floor space once the usual furniture such as a bed, wardrobe and chest of drawers/desk have been installed.
5. Looking first at the bedrooms, the failure against the standards is a limited one and does not appear to have resulted from the change of use, although the re-arrangement of sanitary accommodation to serve additional occupiers has altered the size of other bedrooms, but they do still comply. Having regard to the concern about installing furniture and having useable space left, it is noted that each room has an elegantly designed and well-built fitted unit providing a desk, hanging space and other storage, and this is more efficient in the use of space than the individual items referred to by the Council. Having visited each room and assessed how it is being used in practice, it is concluded that they are fit for their purpose, provide a good quality of accommodation and accord with Policy QD27 as the change of use does not cause material nuisance and loss of amenity to the proposed, existing or adjacent users, residents, occupiers.
6. The arrangement of the lower ground floor containing the lounge, dining area and kitchen, all as one room, does not appear to have changed markedly from that for the previous Class C4 use, although it is noted that an enclosure and fire door has been built around the foot of the stair from the entrance hallway, and this is not shown on the submitted drawing SG.01.
7. The double-banked galley kitchen has a narrow central space which also provides access to outside, but has a good amount of clear worktop area with two tall fridge/freezers, a double sink and drainer and a wide range-cooker. There appears sufficient space for different people to be carrying out likely tasks. The breakfast bar can clearly accommodate 4 people on the side away from the freezers and 3 adjacent to them, and there is room for the remaining 2 at the end. The lounge area may be tight for 9 people, but not unduly so and there would be space to use the breakfast bar area and seating.
8. All of the forgoing assumes all 9 people wish to do the same things at the same time, but as the appellant states, there is bound to be some diversity of use, and at the time of the site inspection some occupiers were clearly out whilst others were not yet up-and-about. As to the outlook, the room is below pavement level, but is reasonably well-lit and has the stated access to the outside space adjacent to the Cobden Road footway. It is concluded that the accommodation does reach the standard sought in Policy QD27.

Conditions

9. The Council has suggested conditions and the appellant has commented to the effect that permitted development rights need not be removed. Whilst the

web-based Planning Practice Guidance states that removal of such rights rarely passes the test of necessity, it is the case here that the Council has raised no objection with regard to the effect on the surrounding area, but further development could cause harm and it is necessary in this situation to remove the rights so that consideration can be given to any application for express permission.

10. The reasoning that leads to this Decision has been based on there being 9 people in occupation, since two of the rooms are capable of accommodating a double bed. The appellant's case has always been that this is what is applied for. There is therefore no reason to restrict the occupancy below that figure. It is necessary however to preserve the use of the communal space to avoid conversion to a further bedroom.
11. Whilst there is a need for a condition to ensure the provision of cycle storage, and the appellant pointed to the area for a future bin store, the change of use has been carried out and occupation has occurred. A more complete condition is required to address any default. In any event, the stated requirement for the scheme to have been approved within 3 months is unreasonable as that action by the Council is beyond the appellant's control.
12. The condition naming the drawings is not required as the provisions for greater flexibility in planning permissions does not apply to retrospective permissions.

Conclusions

13. The nature of the rooms and fitted furniture provided, and of the communal facilities, lead to the conclusion that the change of use to up to 9 people in 7 rooms would not cause harm to their living conditions and would accord with Policy QD27. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

Schedule of Conditions

- 1) The use hereby permitted shall cease within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for secure cycle parking facilities for the occupants of, and visitors to, the development, together with bin storage facilities, shall have been submitted for the written approval of the Local Planning Authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained and remain available for use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) The kitchen/dining/lounge areas as detailed on drawing SG.01 received on the 2 December 2016 shall be retained as communal space at all times and shall not be used as a bedroom.
- 3) The development hereby approved shall be occupied by a maximum of 9 persons.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), 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 Order shall be carried out other than those expressly authorised by this permission, or pursuant to the other conditions attached.