

Appeal Decision

Site visit made on 7 November, 2016

by C. Jack, BSc (Hons) MA MA(TP) MRTPI

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

Decision date: 29th November, 2016

Appeal Ref: APP/Q1445/W/16/3154217

19 Caledonian Road, Brighton, BN2 3HX

- 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 Tamara Frangoul against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/03781, dated 16 October, 2015, was refused by notice dated 7 April, 2016.
 - The development is the change of use from a six bedroom small house in multiple occupation (C4) to a seven-bedroom large house in multiple occupation (sui generis).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a six bedroom small house in multiple occupation (C4) to a seven bedroom large house in multiple occupation (sui generis) at 19 Caledonian Road, Brighton, BN2 3HX in accordance with the terms of the application, Ref BH2015/03781, dated 16 October, 2015, and the plans numbered 3536.EX.01A; 3536.PL.01B; and 3536.PL.02, subject to the following condition:
 - 1) Within three months of the date of this decision, secure bicycle storage facilities shall be provided in accordance with the details shown on drawing numbers 3536.PL.01B and 3536.PL.02. The facilities provided shall thereafter be kept available at all times for the storage of bicycles.

Main Issues

2. The main issues are i) the effect of the development on the character and appearance of the area and ii) whether the development provides acceptable living conditions for its occupants.

Preliminary Matters

3. I saw during my site visit that the development has already taken place and the additional bedroom is occupied.

Reasons

4. 19 Caledonian Road is a four-storey terraced house, including accommodation at lower ground floor level and in the extended roof space, which is currently let to students. The former living room on the lower ground floor has been converted into a seventh bedroom, changing the number of occupants and therefore the use of the property from a small House in Multiple Occupation (HMO) to a large HMO. The lawful planning use as a small HMO, for up to six occupants, is not disputed. The property is licensed by the Council, under the
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separate provisions of the Housing Act 2004, as an HMO for up to seven occupants.

Character and appearance

5. No 19 is a property of typical appearance for Caledonian Road, situated in an area with an existing high concentration of HMOs. The character of the road is residential, albeit the nature of that residential use varies, and the site is close to various other uses along the busy Lewes Road, including pubs, shops, and takeaways. The Council has identified that around 60% of residential properties within a 50m radius of the appeal site are currently in HMO use, and the appellant does not contest this. The Council has an Article 4 Direction in force, which removes national permitted development rights for change of use from C3 (dwellinghouse) to C4 (small HMO). While not specifically associated with this case, the Direction is indicative of the strength of the Council's concerns relating to the over-concentration of HMOs in certain electoral wards, including that in which the appeal site lies, and the effect this can have on the residential environment of the area, among other things.
6. Moreover, adopted Policy CP21 of the Brighton and Hove City Plan Part One 2016 (BHCP) seeks to support mixed and balanced communities by preventing additional HMOs, whether arising through new build or change of use, in areas where more than 10% of dwellings are already in HMO use. At around 60%, the over-concentration of HMOs within 50m of the appeal site is already substantial, and is significantly above the threshold set out in Policy CP21. Notwithstanding, I note that the primary purpose of the threshold is to help ensure that a range of housing needs continue to be accommodated throughout the city.
7. In this case, the use of No 19 is already established as an HMO and as a result of the alterations undertaken, it remains an HMO, albeit with an increased occupancy of one. While the parties agree that a change of use has taken place, this is from one classification of HMO to another. The overall range of housing being provided is therefore unchanged as a result of this development, as is the number and proportion of HMOs in the area.
8. I note the Council's view that Policy CP21 should be used to control changes of use to any type of HMO, including large (sui generis) HMOs in accordance with paragraph 4.235 of the supporting text to the Policy. However, the stated purpose of this is to address the potential impact of concentrations of HMOs upon their surroundings and to ensure that healthy and inclusive communities are maintained across the city. As there has been no change to the number or concentration of HMOs, I consider that the development undertaken does not undermine the Council's objective to curtail the over-concentration of HMOs in certain areas, and that there is no conflict with Policy CP21 in this regard. Furthermore, the Council has not provided any significant evidence to support its assertion that the incremental intensification of the appeal site, and others nearby, from small HMOs to sui generis HMOs is adding to cumulative harm arising from the existing over-concentration of HMOs in the area.
9. The additional activity associated with one more occupant at No 19, even if representing a different pattern of behaviour to a typical occupant of a family dwelling, is unlikely to be perceptible in the context of the character of Caledonian Road or the wider neighbourhood. Accordingly, the effect of this marginal increase is not significant in terms of the overall character, mix and

balance of the local community. Therefore, it follows that the additional bedroom provided at No 19 is unlikely to cause a material increase in noise or disturbance experienced at neighbouring properties. Moreover, I saw during my site visit that the property appeared tidy, and well managed and maintained.

10. For these reasons, I conclude that the development does not harm the character and appearance of the area and I find no conflict with adopted Policy CP21 of the BHCP. I also find no conflict with retained Policy QD27 of the Brighton and Hove Local Plan 2005 (BHLP), which amongst other things seeks to ensure that changes of use will not cause material nuisance or loss of amenity to existing, proposed or nearby occupiers.

Living conditions

11. As a small HMO for six occupants, No 19 provided communal living space by way of a kitchen/diner and a separate living room, both on the lower ground floor. The conversion of the living room to an additional bedroom has left the kitchen/diner as the only communal space in a dwelling now intended for occupation by seven people.
12. The parties agree that the kitchen/diner has a floor space of about 15m². I saw during my site visit that it comprises a modern kitchen facility with a range of cupboards and appliances. The room is roughly square and there is adequate space for the table and seven dining chairs that have been provided for the occupants. The room is light, has a door to the back garden, and provides a reasonably pleasant and functional communal space as part of an overall standard of accommodation with which the current student occupants generally attest to being satisfied.
13. The Council has no adopted space standards for HMOs for planning purposes. However, the kitchen/diner would appear to be consistent with the space requirements of the Council's licencing scheme for HMOs, of 14m² for a kitchen with dining facilities for a HMO of this size. Like the Inspector in appeal Ref APP/Q1445/W/15/3140528, I consider that while the loss of the living room may be regrettable, its retention was not essential in connection to the use of the property as an HMO. Furthermore, the seventh bedroom provided in place of the former living room is of a good size. Accordingly, I consider that No 19 provides an acceptable standard of accommodation for its use as a large HMO.
14. For these reasons, I conclude that the development provides acceptable living conditions for its occupants. Accordingly, I find no conflict with retained Policy QD27 of the BHLP, which amongst other things seeks to ensure that a change of use will not cause material nuisance or loss of amenity to existing occupiers.

Other Matters

15. The Council has drawn my attention to two appeal Decisions that it considers support its position in this appeal. The circumstances of appeal Ref APP/Q1445/C/16/3145546 differed significantly from those in the case before me because it related to the change of use of a dwellinghouse (C3) to a HMO, which would have resulted in a change to the concentration of dwellinghouses and HMO properties in that area.
16. The second appeal, Ref APP/Q1445/W/16/3149843, was similar to the case before me in that it related to a change of use from a six bedroom small HMO

to a seven bedroom sui generis HMO. In that case, the Inspector gave some weight in favour of the appeal to the marginal nature of the impacts he had identified in relation to the over-concentration of HMOs in that area. However, when combined with the inadequate standard of accommodation identified, he found against the appeal. In this case, I have not identified an inadequate standard of accommodation. Therefore, while I have given these other Decisions some weight in favour of the Council's position, this does not outweigh my findings above, which relate to the specific circumstances of the case before me.

17. In its second reason for refusal, the Council also referred to a bedroom sited below the roof slope, which it considers to provide an unacceptable standard of accommodation, having limited headroom and circulation space. The appellant states that this bedroom, identified as bedroom 5 on the submitted plans, was present when the property was occupied as a small HMO and that the change of use subject to this appeal relates solely to the provision of the bedroom identified as bedroom 7. I have not been provided with any significant counter evidence by the Council and I see no other significant reason to doubt the appellant's position on this point. Notwithstanding, I saw during my visit that while bedroom 5 has limited headroom in part, it accommodates a bed, desk and storage furniture in a manner that did not appear significantly cramped, and provides usable space for the occupant that is not excessively restricted by the part-sloping ceiling. My findings above with regard to living conditions are therefore unaffected.

Conditions

18. The Council has not provided a list of suggested conditions. However, the local highway authority suggested a condition relating to the provision of secure cycle storage during consideration of the application. I have imposed a condition to secure the cycle storage shown on the submitted plans, in the interests of encouraging sustainable travel. In other respects the development is complete and no other conditions are necessary.

Conclusion

19. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Catherine Jack

INSPECTOR