



Appeal Decision

Site visit made on 24 October 2017

by N A Holdsworth MCD MRTPI

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

Decision date: 24th November 2017

Appeal Ref: APP/Q1445/W/17/3180213
282 Ditchling Road, Brighton, BN1 6JF

- 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 Mr Adrian Batchelor against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05821, dated 21 October 2016, was refused by notice dated 26 June 2017.
 - The development proposed is change of use of C3 dwelling house to sui generis large house in multiple occupation.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are
 - Whether or not the development provides satisfactory living conditions having regard to the communal space within the building.
 - The effect of the development on the living conditions of the occupants of surrounding residential buildings, with particular regard to noise and disturbance.

Reasons

3. At the time of my site visit the house was being used as House in Multiple Occupation (HMO) and I have assessed the appeal on that basis. The layout reflected the plans submitted with the appeal.
4. The building houses eight independent occupants. The Council estimate that the kitchen area comprises around 7.5 square metres of space. Within this area the amount of space for cooking, washing, food storage and preparation is very limited, with only a single oven and sink. The room also serves as a passageway to the bathroom and rear garden area, which further compromises the utility and functionality of this space. Whilst residents of the building would lead independent lives and may not prepare food together, it is a reasonable assumption that there would be times of the day where there would be demand from several residents to prepare food at one time. The kitchen space is too small to facilitate this.

5. The second communal area is also a through room, leading from the hallway at ground floor level to the kitchen and bathroom. The Council estimate that this area comprises 11.3 square metres. The need to maintain an open and unobstructed walkway through this room means that it is not a desirable place to relax or socialise. Whilst the area in question is identified on the plans as a dining room, no specific area to dine in comfort is currently provided. I observed that, in addition to 3 small sofas, this area housed a fridge and washing machine indicating that it was being used as an overflow from the kitchen, a reflection on the small size of the kitchen area.
6. The lack of communal space within the building for day to day activities means that resident's lives are concentrated in the bedrooms within the property. In order to provide a satisfactory living environment, these rooms need to provide space for sitting, relaxation and the storage of clothes and other personal belongings in addition to a bed. However, I observed that many of the bedrooms are only large enough to comfortably accommodate a bed and desk alongside limited storage space. Consequently, the provision of functional and comfortable communal space where residents can relax, dine and socialise within the building is of particular importance. The limited space provided in the kitchen and living room area fails to do this.
7. The Council raise a specific concern about the top floor front bedroom, which is set beneath the front roof slope and most of the room is located beneath sloping walls. However, it is possible to stand up and move around unobstructed in a proportion of this room, and I observed that the space beneath the roof slope was being used to house a bed and desk. In the event that there were sufficient communal facilities within the building, I consider that this room would provide an acceptable standard of accommodation as a bedroom.
8. The appellant considers that all the bedrooms meet the space standards for single occupancy bedrooms as set out in Nationally Described Space Standards. However, it is reasonable to expect the accommodation to provide a suitable living environment for its occupants to carry out daily activities. The fact that there is a demand for the accommodation in its existing form does not provide a justification for it in planning terms. Whilst previous occupants have been groups of students on a single tenancy, this cannot be relied upon as a guide to the future occupation of the building.
9. Overall I find that the poor layout and quality of the communal space within the building means that the building fails to provide satisfactory living conditions for existing and future occupants of this building. Saved Policy QD27 of the Brighton and Hove Local Plan (adopted 2005) ("Local Plan") is consistent with paragraph 17 of the National Planning Policy Framework ("the Framework") which requires new development to achieve a good standard of amenity for future occupants of buildings. The development would fail to achieve these planning policy objectives.

Living conditions

10. The Council and third parties also raise concerns about the effect of the development on the living conditions of the occupants of surrounding residential buildings. The proposal would result in eight independent people living together and coming and going from the property at various times and,

given that the property falls within a terrace, associated noise may travel through the respective party walls.

11. However, any residential use of this large property has the potential to create noise with similar characteristics. It would depend on the behaviour of future occupiers. Whilst I note that neighbouring residents have experienced instances of disturbance associated with the property, no formal evidence of noise complaints have been provided. Furthermore, the property is located on a busy road. I observed that it is located close to a bus stop, the intersection of five roads and a number of shops. As such, residents of this part of Ditchling Road are already subject to a degree of background noise arising from pedestrian and vehicular traffic passing on the adjacent road. I therefore consider that any noise arising from comings and goings to and from the premises associated with the development would not result in material harm to living conditions, given the existing background noise conditions found in the surrounding area.
12. In its justification for the second reason for refusal the Council make reference to an Article 4 direction and the circumstances that preceded it, including concern about the effect of HMO's on increased noise disturbance leading to harm to the living conditions of surrounding residents. However the effect of the Article 4 direction is to increase the scope of planning control over the issue. Policy CP21 of the Brighton and Hove City Plan Part one (2016) ("City Plan") sets out a position where new HMO's will not be permitted where more than 10% of dwellings within a radius of 50 metres of the application site are already in HMO use. The Council accept that this threshold would not be breached in the case of the appeal proposal, and I agree that the development would not conflict with policy CP21 of the City Plan.
13. Consequently, I find that the development would not result in unacceptable levels of noise and disturbance and would not result in material harm to the living conditions of neighbouring residents. It complies with saved policy SU10 of the Local Plan which requires proposals for new development to minimise the impact of noise on neighbouring properties and the surrounding environment. To the extent that it applies to the effects of development on occupiers of existing residential buildings, the development also complies with saved policy QD27 of the Local Plan which requires that new development does not result in material nuisance or loss of amenity to existing residents.

Conclusion

14. I have found that the proposed development would not result in material harm to the living conditions of the occupants of neighbouring residential buildings through noise and disturbance. However, this does not outweigh the harm I have identified in relation to the first main issue that the accommodation would fail to provide a satisfactory living environment for existing and future occupants. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Neil Holdsworth

INSPECTOR