
Appeal Decisions

Site visit made on 11 June 2018

by D E Morden MRTPI

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

Decision date: 14 August 2018

Appeal A: APP/Q1445/C/17/3179017

Maisonette, 23 Wilbury Grove, Hove, BN3 3JQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Adenstar Construction Ltd against an enforcement notice issued by Brighton & Hove City Council.
- The enforcement notice, Ref 2016/0195, is dated 12 May 2017.
- The breach of planning control as alleged in the notice is the material change of use from a House in Multiple Occupation (C4) to a House in Multiple Occupation (Sui Generis).
- The requirements of the notice are to cease the use of the property as a House in Multiple Occupation (Sui Generis).
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Decision: The appeal is dismissed and the enforcement notice is upheld.

Appeal B: APP/Q1445/W/17/3179012

Maisonette, 23 Wilbury Grove, Hove, BN3 3JQ

- 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 Adenstar Construction Ltd against the decision of Brighton & Hove City Council.
- The application Ref BH2016/06390, dated 8 December 2016, was refused by notice dated 8 May 2017.
- The development proposed is change of use from a C4 small HMO to a sui generis HMO (Retrospective).

Decision: The appeal is dismissed.

Preliminary Matters

1. Appeal B concerns a development that has already been undertaken and I shall therefore treat it as having been an application made under s73A of the Town and Country Planning Act 1990 (as amended).

Main issues – Appeals A and B

2. I consider that the main issues in this case, having regard to the prevailing policies in the adopted development plan, are firstly, whether the development would preserve or enhance the character or appearance of the Willett Estate Conservation Area and secondly, whether an adequate standard of accommodation would be provided for the occupiers of the property.

Reasoning

3. Dealing with the first main issue, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas in considering proposals within them. No objections were raised by the Council on this issue and indeed no comments were made at all either in the written representations or in the officers' report which was also included in the papers submitted.
4. The development concerns a change of use to a more intensive type of HMO and the Council is satisfied that it meets its Policy CP21 in terms of the number of HMOs within a 50m radius of one another - there are no known HMOs close to this property. In these circumstances I consider that it is unlikely that the development would have anything more than a neutral impact on the character of the Conservation Area.
5. The Council's only objection to this proposal was regarding the standard of accommodation being provided for the inhabitants of the property. Firstly, it was argued, the subdivision of one large bedroom on the top floor into two smaller ones results in a room that is too small to provide reasonable accommodation. Secondly, the changes have resulted in only one communal room for all 7 occupiers; a large kitchen/diner/living room on the lower of the two floors making up this unit. Previously there had been a large separate living room as well as the large kitchen.
6. Looking firstly at the communal space the appellant argued that a large L-shaped kitchen was provided that was sufficient to allow all occupants to be there at the same time, to sit and to socialise. It is also stated that the accommodation is aimed at the short term market and highly improbable that all would be in the room at the same time.
7. The last point made is clearly speculation and the opposite could be just as likely. Whether the accommodation is for short term occupants or not is irrelevant in my view; that should not mean that a lesser standard of space is acceptable and I can think of no argument that would justify such a stance. The kitchen is not what I would call L-shaped; it is basically rectangular and by virtue of a small alcove at one end a small section is slightly wider than the rest of the room.
8. From what I saw at my visit the room, with the chairs set out therein, is barely large enough to accommodate everyone with any reasonable amount of circulation space; there is certainly nowhere for anyone to sit and relax outside of their own room which there would be if the living room had been retained. I acknowledge that there are no set standards and what is provided is sufficient to obtain an HMO licence but I agree with the Council that it is contrary to Policy QD27 of the retained policies of the Brighton and Hove Local Plan (March 2016) which seeks to ensure a reasonable standard of amenity for existing occupants.
9. Turning to the two bedrooms on the upper floor created by dividing up one larger bedroom in part of what is actually a floor contained partly within the roof space; the parties disagreed about the amount of floor space provided in these rooms and whether the measurements in the Council's report were correct. The appellant argued that what was provided was in line with the

technical housing standards but queried whether they were relevant anyway as they had been produced to be used for new housing. I agree with the Council that they provide a useful guide and the Council tries to secure something more than the bare minimum fit for human habitation that licensing provides for.

10. Even on the appellant's own drawings the smaller of the two bedrooms created by the subdivision is only 6.5sqm above 1.5m from ground level and at 1.8m above ground level that area reduces to just 5.5sqm. At the visit it hardly felt that one was standing in a room; it was more of a large cupboard or walk in wardrobe so poor and cramped was the 'accommodation'. There was virtually nowhere to stand and move around at any sensible height and whilst in terms of length and width the measurements appear as though they may be satisfactory I consider that what was provided was totally unacceptable. The situation is exacerbated by the fact that there is no alternative living room available in the property that the occupant could use.
11. The other bedroom created by the subdivision is also very poor in terms of space provided that is of a reasonable height to form living accommodation. It is slightly larger than the room referred to in the previous paragraph but in my view unacceptable to provide someone's only personal room.

Conclusion

12. In all these circumstance, whilst I have found that the development has a neutral impact on the Conservation Area I conclude that the standard of accommodation is unacceptable and contrary to Policy QD27; I shall therefore dismiss Appeal A and uphold the Enforcement Notice and dismiss Appeal B.

D E Morden

INSPECTOR