
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: 29 August 2018

Appeals A & B: APP/Q1445/C/17/3179004 & 3179005 24 Brading Road, Brighton, BN2 3PD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr C and Mrs A Hawes against an enforcement notice issued by Brighton & Hove City Council.
- The enforcement notice Ref: ENF2016/05245 is dated 10 May 2017.
- The breach of planning control as alleged in the notice is the material change of use from a small House in Multiple Occupation (C4) to a 7 bedroom large House in Multiple occupation (Sui Generis).
- The requirements of the notice are to cease the use of the property a large House in Multiple Occupation (Sui generis).
- The period for compliance with the requirements is 3 months.
- The appeals are proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeals are allowed subject to conditions as set out in the Formal Decision at paragraph 10 below.

Appeal C: APP/Q1445/W/17/3178994 24 Brading Road, Brighton, BN2 3PD

- 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 Mrs A Hawes against the decision of Brighton & Hove City Council.
- The application Ref BH2017/00051, dated 7 January 2017, was refused by notice dated 2 May 2017.
- The development proposed is material change of use from a 6 bedroom small House in Multiple Occupation (C4) to a 7 bedroom House in Multiple Occupation (Sui Generis).

Summary of Decision: The appeal is allowed subject to conditions as set out in the Formal Decision at paragraph 11 below.

These decisions are issued in accordance with section 56(2) of the Planning and Compulsory Purchase Act 2004 as amended and supersede those issued on 13 August 2018.

Preliminary Matters

1. Appeal C 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, B and C

2. I consider that the main issues in this case, having regard to the prevailing policies in the adopted development plan, are the effect of the development on the character of the surrounding community, and secondly, whether an adequate standard of accommodation is being provided for the occupiers of the property.

Reasoning

3. Dealing with the first main issue, Policy CP21 in the Brighton and Hove City Plan Part One (adopted 1 March 2016) states that change of use to Houses in Multiple Occupation will be allowed in principle so long as the number of converted properties does not exceed 10% within a 50 metres radius of the appeal property. The Council acknowledged that permitting this change of use would result in that ratio reaching 9.6% and as such there could be no objection to the change from that standpoint. In those circumstances I conclude that there would be minimal change to the character of the surrounding community and the development would not materially harm its character.
4. Turning to the second main issue, the Council's main objection was to what it claimed would be an unacceptable reduction in the standard of accommodation being provided at the property and poor living conditions for the occupiers. Firstly, it was argued, one of the bedrooms would be below the minimum sizes set out in the Technical Housing Standards - nationally described space standard. Secondly, there would now be just two toilets and two showers for seven people whereas there had been three toilets and two bathrooms for six people.
5. The new bedroom created on the upper ground floor has an area of 6.76sqm and a maximum width of 2.1m. This results in a room that is 50mm narrower than the standard at its widest point and 0.8sqm less in area than the minimum. I acknowledge the appellant's view that these standards (which are not binding) are basically to be applied to new dwellings rather than HMOs and other existing developments but they provide a useful guide. Having said that I agree that the deficiency is minimal and could not, in my view, justify dismissing this appeal.
6. In terms of shower and toilet provision, the property satisfies the licensing authority for HMO purposes and there is still the provision of a toilet separate from any shower/bath room. Again, whilst I acknowledge that the standard of provision has been reduced slightly, I do not consider that the standard is poor enough to justify dismissing this appeal.
7. At lower ground floor level a large kitchen/dining room has been provided as well as a large lounge/living room and provided these rooms are retained for these purposes I consider that the provision overall is satisfactory for seven persons.

Conditions

8. The Council did not suggest any conditions and the development has already been carried out. To ensure the living conditions of the existing and future occupants it would be reasonable to limit the number of persons living in the property and also to ensure that the communal areas and facilities are retained

as such and I will attach the necessary conditions to the permissions that I shall grant.

Conclusions

9. Subject to the imposition of the conditions outlined in the preceding paragraph, and having regard to all other matters raised in the representations, I conclude that the appeals should be allowed.

Formal Decisions

Appeals A and B – APP/Q1445/C/17/3179004 and 3179005

10. The appeals are allowed, the enforcement notice is quashed and planning permission is granted on the applications deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the change of use of the property at 24 Brading Road, Brighton BN2 3PD, as shown on the plan attached to the notice, from a small House in Multiple Occupation (C4) to a 7 bedroom large House in Multiple occupation (Sui Generis) subject to the following conditions:

- 1) The development hereby approved shall be occupied (for accommodation and living purposes) by a maximum of 7 persons at any time.
- 2) The living room and kitchen/dining room on the lower ground floor shall be retained as communal space at all times and neither room shall be used as a bedroom.

Appeal C – APP/Q1445/W/17/3178994

11. The appeal is allowed and planning permission is granted for the change of use of the property at 24 Brading Road, Brighton BN2 3PD from a small House in Multiple Occupation (C4) to a 7 bedroom large House in Multiple occupation (Sui Generis) in accordance with the terms of the application, Ref BH2017/00051, dated 7 January 2017, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby approved shall be occupied (for accommodation and living purposes) by a maximum of 7 persons at any time.
- 2) The living room and kitchen/dining room on the lower ground floor shall be retained as communal space at all times and neither room shall be used as a bedroom.

D E Morden

INSPECTOR