



Appeal Decision

Site visit made on 18 March 2019

by J Slominski BA(Hons) MCD

an Inspector appointed by the Secretary of State

Decision date: 9th July 2019

Appeal Ref: APP/Q1445/W/18/3218445

7-9 Vallance Road, HOVE, BN3 2DA

- 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 Dr Kaiser Mirza against the decision of Brighton and Hove City Council.
 - The application Ref BH2017/04125, dated 07 December 2017, was refused by notice dated 22 June 2018.
 - The development proposed is Change of use from residential care home (C2) to two large houses in multiple occupation (sui generis).
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Decision

1. The appeal is allowed and planning permission is granted for Change of use from residential care home (C2) to two large houses in multiple occupation (sui generis) at 7-9 Vallance Road, HOVE, BN3 2DA in accordance with the terms of the application, Ref BH2017/04125, dated 07 December 2017, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1612-14; 1612-11F; 1612-13G.
 - 3) Prior to the first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
 - 4) The property at 7 Vallance Road shall only be occupied by a maximum of thirteen persons at any one time, and the property at 9 Vallance Road hereby approved shall only be occupied by a maximum of fifteen persons at any one time.
 - 5) The rooms annotated on the hereby approved plans as "KITCHEN/DINING RM" shall be provided prior to the first occupation of the hereby approved development, shall be retained as communal space and shall not be used as bedrooms at any time. The bedrooms shown shall be retained in the form shown on the plans and not subdivided.

Main Issues

2. The main issues are:

- i. Whether the proposed Houses of Multiple Occupation (HMOs) would provide an acceptable standard of accommodation.
- ii. The effect of the proposed development on living conditions at neighbouring properties.

Reasons

Standard of Accommodation

3. 7-9 Vallance Road are a pair of double fronted two storey detached properties joined by a glazed link. The buildings are currently in use as a care home. The proposal is for limited internal reconfiguration, mostly re-using the existing rooms, to create two HMOs, one with 7 bedrooms and the other with 8 bedrooms. Each HMO would have a kitchen dining room on each floor, shared by up to four rooms per floor.
4. The Brighton and Hove Local Plan does not set out specific standards for room sizes in HMOs. The Council has instead relied on the guidance on room sizes provided in the "Technical Housing Standards – National Described Space Standards (March 2015)". Those standards are not adopted by the Council and are intended to apply to individual dwellings rather than expressly to HMOs, but as Government standards are a material considerations. The requirements that a single bedroom should be at least 7.5 square metres and 2.15 metres wide are useful guidance in the absence of any formal local standard, and all of the proposed rooms would comply with those requirements. The Council remains concerned by the awkward shape of bedroom 7 at no.7 Vallance Road. As that is an existing room I was able to view it at my site visit, and I found it to be generously proportioned at 15.45 square metres with a bay window and high ceiling, and it would provide its occupants with satisfactory accommodation including space for furniture.
5. The rooms would have access to shared kitchens with dining spaces in addition to garden space at the rear. There would be no shared living room or further internal communal spaces. As a result, the proposed accommodation would be of a lower standard than that usually expected from an individual dwelling and the Council refused the development on that basis. However, the development plan does not require additional living rooms within HMOs and the proposed accommodation would not conflict with any development plan standard. As a result, the proposed development would comply with the relevant guidance and with Policy QD27 of the Brighton and Hove Local Plan which requires satisfactory living standards for future occupants.

Effect on living conditions

6. The Council consider that the increased occupancy of the property would lead to an increase in activity, noise, disturbance and additional comings and goings from the property which would be detrimental to the amenity of neighbouring properties.
7. The existing care home experiences a number of visits from staff and healthcare providers, and there is no reason to suggest that the future

residents will result in increased disturbance compared to the existing situation. The Council have acknowledged that the proposal would not result in over intensification of HMO accommodation in the locality and that an HMO use is acceptable in principle.

8. The proposal would not increase the size of the buildings, and there would only be an increase in two bedrooms when compared with the existing care home. The proposal would not introduce any particularly noise generating uses, and the effect on neighbours would be limited to that arising from additional comings and goings and use of the residential garden.
9. The types of noise generated by comings and goings are commensurate with those expected in a residential area, and the proposal does not include the use of noise generating plant or machinery. The garden may be used by residents, but the nature of an HMO is that it is occupied by unrelated households and it is no more likely that all of the tenants would use the garden for noisy activity at the same time as it is that the neighbours may have a garden party or carry out maintenance work. I therefore do not consider that the proposed use of the building would result in unacceptable noise arising from use of the garden.
10. Due to the limited change in scale compared with the existing use, and as a residential use within a residential area, I find that the proposal would not result in inappropriate activity or noise disturbance. The proposal would therefore comply with Policy QD27 of the Brighton and Hove Local Plan which requires developments to avoid harm to the living standards of neighbouring occupiers, and Policy SU10 which seeks to protect neighbouring properties from noise nuisance.

Other Matters

11. The Council have advised that the site is located within a Controlled Parking Zone which will ensure that any additional demand for on-street parking is managed.
12. I have considered the representations made by interested parties, on matters including sewage, waste generation, parking, and the impact on the character of the conservation area. However none of those concerns outweigh the development's compliance with the development plan.

Conclusion and Conditions

13. I have found that the development complies with the development plan, and the appeal is therefore allowed.
14. I have attached planning conditions requiring commencement within three years to comply with section 91 of the Town and Country Planning Act 1990, and compliance with the submitted plans, in the interests of clarity. I have imposed conditions restricting the occupancy and layout to regulate the use of the property and layout. Condition 5 is necessary to ensure that adequate facilities are provided before the bedrooms are occupied thereby ensuring adequate communal facilities and acceptable accommodation are provided.
15. I have also imposed a condition relating to cycle parking to promote sustainable transport.

16. I do not consider the Council to have demonstrated the necessary exceptional circumstances to remove permitted development rights, as the property is within a residential area of similar houses, no extensions are proposed, and the proposed change of use does not give rise to the need to control the size or appearance of the buildings further than existing planning controls.

Jan Slominski

INSPECTOR