



Appeal Decisions

Site visit made on 18 June 2019

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 11 July 2019

Appeal A: APP/Q1445/C/18/3219083

54 West Hill Street, Brighton, BN1 3RS

- 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 Bellerophon Capital Management Ltd against an enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice was issued on 5 November 2018.
 - The breach of planning control as alleged in the notice is the material change of use from dwellinghouse (C3) to a 5 bedroom house in multiple occupation (C4).
 - The requirements of the notice are to cease the use of the property as a house in multiple occupation.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) & (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/Q1445/W/18/3214344

54 West Hill Street, Brighton BN1 3RS

- 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 Bellerophon Capital against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/02121, dated 29 June 2018, was refused by notice dated 10 September 2018.
 - The development proposed is change of use from C3 residential dwelling to a C3/C4 small house in multiple occupation suitable for occupation by up to 5 people.
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Procedural Matters

1. The section 78 appeal and the ground (a) appeal & deemed planning application relate to the same change of use.

Decisions

Appeal A

2. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land and buildings at 54 West Hill Street, Brighton, BN1 3RS as shown on the plan attached to the notice, for the material change of use from dwellinghouse (C3) to a 5 bedroom house in multiple occupation (C4) subject to the conditions below:-

Appeal B

3. The appeal is allowed and planning permission is granted for the development already carried out, namely the use of the land and buildings at 54 West Hill Street, Brighton, BN1 3RS, for change of use from C3 residential dwelling to a C3/C4 small house in multiple occupation suitable for occupation by up to 5 people, subject to the conditions below:-

Conditions

- (i) The development hereby approved shall only be occupied by a maximum of 5 persons.
 - (ii) The use hereby permitted shall cease within 3 months of the date of failure to meet any one of the requirements set out in a) to d) below:
 - (a) Within 3 months of the date of this approval, 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 within one month of the agreement of details and shall thereafter be retained for use at all times.
 - (b) If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - (c) If an appeal is made, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - (d) The approved scheme shall have been carried out and completed in accordance with the approved timetable.
- In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reasons

Ground (a)

4. The development plan includes the Brighton and Hove City Plan Part One [CP] and the Brighton and Hove Local Plan (retained policies) [LP].
5. CP Policy CP21 relates to student houses and houses in multiple occupation and indicates that in order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 use, a mixed C3/C4 use or to a sui generis house in multiple occupation use will not be permitted where more than 10% of dwellings within a radius of 50m of the application site are already in use as Class C4, mixed C3/C4 or other types of house in multiple occupation in a sui generis use. I accept that this is a reasonable limit to consider. CP21 has been backed up with an Article 4 direction which requires development for changes of such uses that would normally have been permitted to require planning permission. The aim is to secure balanced communities and to try to locate student accommodation in

- areas of the city that are most suitable in terms of accessibility and impact on the amenity of the surrounding area.
6. LP Policy SU10 seeks to ensure that planning permission will not cause material harm or nuisance and loss of amenity to neighbouring residents or future occupiers.
 7. LP Policy QD27 relates to the protection of amenity noting that planning permission for any development will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and / or adjacent users, residents or occupiers.
 8. The Council argues that the standard of accommodation is not acceptable. While it does not have a written set of standards, it refers to the Government's 'Nationally Described Space Standards' that provide a reasonable indication for the size of rooms. This indicates that bedrooms should have an area of 7.5 sqm and this is achieved for the bedrooms at the premises. To my mind the acceptability of the accommodation is also directly related to the design and layout. The bedrooms are reasonably proportioned and have space for desks, cupboards and basins. While I note that the bedrooms are adjacent to each other and the doors of some of the bedrooms are close, it is inevitable that in a shared house residents' bedrooms will be close and residents will be passing close to other bedroom doors. However, I do not consider that the proximity of the bedrooms and their doors would lead to an unacceptable impact on the residents' privacy.
 9. The kitchen/dining/communal area would be about 21sqm and is well equipped and provided with a table and chairs and sofas. While I acknowledge that there is a walkway through the space, that has little effect on its usability and some circulation through such rooms is not unusual. The shower rooms are separate from the kitchen being accessed from the corridor. These have sliding doors which ensure that proper access and privacy is provided. The relationship of these shower rooms to the communal area is not unacceptable.
 10. I have noted the comments in relation to means of escape. However, the applicant has applied for a house in multiple occupation licence. There is a serviced fire panel alarm on site and all bedrooms have smoke alarms which the appellant indicates is above the minimum requirement and there is a fire safety assessment by a fire safety consultant who has given the lowest possible risk category. Means of escape were examined and found to be satisfactory, so I attach little weight to this matter.
 11. I consider that the building is acceptable for housing in multiple occupation use by five residents.
 12. I appreciate that a significant concern of this type of use relates to the cumulative impact with other such uses. The individual effect of one house in multiple occupation use, while being different from a normal C3 use and likely to be more intense, is unlikely to have a significant 'material' effect on its surroundings, but a number of such uses together are likely to have an impact on the character of the area and hence the need for CP Policy CP21.
 13. In terms of the cumulative effect in this case, the officer's report indicates that the density of houses in multiple occupation within 50m is below 10% of the dwellings in the area. The officer indicated that the development complied with

- CP21. Looking around the area there is no physical indication of excess numbers of housing in multiple occupation or an impact on amenity of the area. It must also be borne in mind that the planning system accepts generally that this type of conversion can take place without the need for planning permission, indicating the individual change is expected to be small.
14. I do not consider that the use by 5 students would have a material impact on the neighbours' amenity, such that planning permission should be refused. In my view the more intense use of this house in multiple occupation is unlikely to have a material effect on neighbours or the surrounding area. I therefore conclude that the development does not have an unacceptable impact on the surrounding area and complies with CP Policy CP21, and LP Policies SU10 and QD27.
15. I consider it is reasonable and necessary to limit the occupation to 5 persons to ensure that occupants have a satisfactory standard of accommodation and given there is outside space available for cycle parking, I consider it reasonable and necessary to provide cycle parking space to encourage transport by means other than motor vehicles. It is also necessary to add to the condition proposed by the Council to ensure that the condition is enforceable should there be non-compliance, as the use is already occurring.
16. Appeal A succeeds on ground (a) and planning permission will be granted on the deemed planning application, subject to conditions. The appeal on ground (g) does not therefore need to be considered. Appeal B succeeds, subject to conditions.

Graham Dudley

Planning Inspector