



Appeal Decisions

Site visit made on 17 September 2019

by **Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 October 2019

Appeal A Ref: APP/Q1445/W/19/3229296

1 Saunders Park View, Brighton BN2 4AY

- 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 Tom Wright against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/02038, dated 21 June 2018, was refused by notice dated 21 November 2018.
 - The development proposed is change of use from a C3 residential dwelling to a C3/C4 small HMO for up to 5 occupants, single storey rear and single storey side extensions.
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Appeal B Ref: APP/Q1445/W/19/3229300

1 Saunders Park View, Brighton BN2 4AY

- 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 Tom Wright against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/02382, dated 26 July 2018, was refused by notice dated 21 November 2018.
 - The development proposed is change of use from a C3 residential dwelling to a C3/C4 small HMO for up to 6 occupants, hip-gable roof extension, single storey rear and single storey side extensions.
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Decisions

1. **Appeal A** - The appeal is allowed and planning permission is granted for change of use from a C3 residential dwelling to a C3/C4 small HMO for up to 5 occupants, single storey rear and single storey side extensions at 1 Saunders Park View, Brighton BN2 4AY in accordance with the terms of the application, Ref BH2018/02038, dated 21 June 2018, and the plans submitted with it, subject to the conditions in the attached schedule.
2. **Appeal B** - The appeal is allowed and planning permission is granted for change of use from a C3 residential dwelling to a C3/C4 small HMO for up to 6 occupants, hip-gable roof extension, single storey rear and single storey side extensions at 1 Saunders Park View, Brighton BN2 4AY in accordance with the terms of the application, Ref BH2018/02382, dated 26 July 2018, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matter

3. There are two appeals at this site, both seeking to use the property as a small House in Multiple Occupation (HMO). They differ in that Appeal A seeks to house up to five occupants, and Appeal B seeks to house six and also includes a hip-to-gable roof enlargement. I have considered each proposal on its

individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issues

4. The main issues are the effect of the proposals on:

- the character and appearance of the area; and,
- the living conditions of the occupants of No 3 Saunders Park View, with reference to outlook, sunlight and daylight.

Reasons

Character and appearance

5. No 1 Saunders Park View is an end of terrace dwelling at the end of a large cul-de-sac, set back and above the highway. The area around the appeal site is characterised by a group of short terraces. They have hipped roofs with large chimney stacks, which are the foremost features of the street scene. Some of the houses have a single storey flat roof element off the rear elevation.
6. Due to the location of the property, the side extension would be generally seen in distant and oblique views. Its width, scale and the relatively small size of its front window would all ensure its subservience to the property, and its flat roof would correspond with other single storey structures in the area. Although it would not be set back from the principal elevation, given the way it would be experienced, I do not find that this is necessary or would improve its design.
7. However, the works to the roof would remove the hip and chimney stack, which are important features. The gable would cause the building to have an asymmetrical profile at odds with the other terraces. Although, as with the side extension, most public views would be distant, the hipped roof and stack are in an elevated position and sit proudly against the skyline. As such, the gable enlargement would be a harmful alteration to the street scene.
8. I therefore find that the side extension would not harm the character and appearance of the area, but the roof enlargement would. Consequently, Appeal A would accord with the design aims of Policy QD14 of the Brighton and Hove Local Plan (adopted 2016) (BHLP) and the National Planning Policy Framework (the Framework). Appeal B would conflict with design aims of Policy QD14 of the BHLP and the Framework. I have had regard to the design guidance within the Design Guide for Alterations and Extensions Supplementary Planning Document (adopted 2013) (the SPD) in my assessment of both proposals.

Living Conditions

9. Nos 1 and the adjacent 3 Saunders Park View are set into the hillside. Their relatively narrow rear gardens slope up away from the north west facing rear elevations, separated by a close boarded timber fence which follows the incline. No 1's single storey projection abuts the shared boundary. Given these circumstances, light and outlook are already significantly restricted in relation to No 3's patio and the windows within its rear elevation.
10. The rear extension would be a larger replacement of the existing structure. I acknowledge that the appellant's evidence with regard to the neighbouring property and the '45-degree rule' does not reflect the situation on the ground. However, given the enclosure provided by the existing boundary fence, the

longer depth of the extension would have little practical effect on neighbouring occupants. In real terms, the additional effect of the rear extension would be limited to the increase in height as a consequence of its pitched roof. Given the small size of this increase, the additional effect on neighbouring occupants would not cause significant loss of outlook, sunlight or daylight over and above the existing situation. Furthermore, a new lower fence would be provided, which would improve outlook and light at that point.

11. I therefore conclude on this issue that the proposals would have an acceptable effect on the living conditions of the occupants of No 3 Saunders Park View, with reference to outlook, sunlight and daylight. Appeal A and Appeal B would accord with Policy QD27 of the BHLP and the Framework insofar as they require development to retain satisfactory living conditions for neighbouring occupiers.

Other Considerations

12. The appeal property has an extant Certificate of Lawfulness to carry out a hip-to-gable enlargement of identical proportions, which the appellant considers is a fallback position in the event Appeal B was dismissed. The site also has extant planning permission for change of use into a small HMO. Given this site history, it seems to me that the appellant has shown a clear intention to use the dwelling as a HMO, and carry out the necessary operational development. As such, there is a real prospect of the roof enlargement taking place notwithstanding my decision in relation to Appeal B.
13. Consequently, and pursuant to Section 38(6) of the Planning and Compulsory Purchase Act 2004, I consider that this material consideration provides a strong justification for making a decision on Appeal B which is not in accordance with the development plan.

Other Matters

14. I have had regard to a representation about the layout of the HMOs. Although the ground floor bedrooms would be accessed from communal space, they would also have direct access to the outside via windows in the event of an emergency. Despite its location within the roof, I am satisfied that the second-floor bedroom would provide an adequate living environment. The licensing process sits separately to these appeals.

Conditions

15. In the event that I was minded to allow either appeal, the Council requested conditions to be applied, which I have assessed with regard to the tests set out in the Framework and the advice of the Planning Practice Guidance. The appellant has had the opportunity to comment on them during the appeal process. I have amended them where appropriate for the sake of clarity and precision.
16. Conditions requiring compliance with the approved plans are necessary in the interest of certainty. Given the consistency in materials across the street scene, it is necessary to ensure that the proposals match the finishes of the existing dwelling. In order to comply with Policy TR14 of the BHLP, it is essential for secure cycle storage to be provided prior to first use of the HMOs.

17. The Council has requested the removal of permitted development (PD) rights, due to potential harm to the living conditions of neighbouring occupants. However, it has not been substantiated how harm could arise. The expectational circumstances required to justify removal of PD rights have therefore not been established in either appeal. I do however find it necessary to retain the internal communal areas in both cases and to control the number of occupants in Appeal A in order to safeguard the quality of the internal living environments. As the dwelling already has space for the storage of refuse and recycling, I do not find it necessary to control this provision by condition.

Conclusion

18. For the reasons outlined above, and taking all matter raised into account, I shall allow both appeals.

Matthew Jones

INSPECTOR

Schedule of Conditions – Appeal A

- 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: 01, 04, 05.
- 3) The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.
- 4) The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of the development 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.
- 5) The communal area as shown on approved plan 04 shall be retained as communal space at all times and shall not be used as bedrooms.
- 6) The development hereby approved shall be occupied by a maximum of five occupants.

Schedule of Conditions – Appeal B

- 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: 01, 04, 05, 06.
- 3) The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.
- 4) The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of the development 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 at all times.
- 5) The kitchen and lounge as shown on approved plan 04 shall be retained as communal space at all times and shall not be used as bedrooms.