



Appeal Decision

Site visit made on 15 October 2019

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2019

Appeal Ref: APP/Q1445/W/19/3233377

68 & 68A St James's Street, Brighton BN2 1PJ

- 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 Luke Dillon Mahon (Torc Developments Ltd) against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/00359, dated 7 February 2019, was refused by notice dated 7 June 2019.
 - The development proposed is change of use from residential maisonette (C3) and retail unit (A1) to six bedroom small house in multiple occupation (C4), with retention of existing retail use at ground floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the address shown on the Council's decision notice in the banner heading because it identifies the full extent of the appeal site more precisely than the address shown in the planning application form.
3. The description of development shown on the Council's decision notice and the appellant's appeal form is more precise than the description shown on the planning application form and I have therefore used it in the banner heading and determined the appeal on this basis. I have, however, removed the word 'retrospective' because it is not a description of development.
4. My site visit included an inspection of the interior of the property and its rear yard. It was clear that the property is already in use as a House in Multiple Occupation (HMO) providing 6 bedrooms. The layout of the HMO accords with drawing No. 05. I have therefore determined the appeal on the basis of the development that I saw during my site visit.

Main Issue

5. The main issue is whether or not the HMO provides satisfactory living conditions for its occupants.

Reasons

6. The HMO consists of a basement communal kitchen/dining room and 6 bedrooms on the first, second and third floors. The bedrooms on the first and second floors have their own en-suites and the 2 third floor bedrooms share a W.C. A retail unit is retained on the ground floor, accessed via the shopfront, which is currently vacant.

7. The Council is concerned that the cumulative effect of the bedroom sizes; the vertical separation between the upper floors and the communal space in the basement; and the levels of light and outlook in the basement result in a poor standard of accommodation. The Council is also concerned that the property does not provide any private outdoor amenity space for its occupants.
8. The basement communal kitchen/dining room is served by 2 small windows in the rear elevation of the building, which face a small yard area. One of the windows is served by a lightwell, which is enclosed by low walls, and the other window is a small rectangular window that is positioned just above the hard surface of the yard. The windows are close to a rear boundary wall.
9. I observed that the communal kitchen/dining room is gloomy and receives poor levels of natural light. The room is quite deep and the size and position of the windows are not sufficient to provide adequate levels of natural light. Occupants would be reliant on artificial light at all times. Furthermore, there is poor outlook from the communal space as a result of the small size of the windows; their position below or just above ground level; and their close proximity to a rear boundary wall. The communal space therefore feels enclosed and gloomy. It is not a pleasant space for cooking, dining and socialising and therefore it provides a poor living environment for the occupants of the HMO. Whilst the size of the communal space exceeds the Council's HMO licensing standards, this does not overcome the harm that I have identified.
10. The Council does not dispute that the bedroom sizes of the HMO exceed the Council's HMO licensing standards. I find that the sizes of the bedrooms are acceptable. Nevertheless, the size of the bedrooms do not mitigate the poor living environment provided by the basement communal space.
11. The basement communal kitchen/dining room is separated from the bedrooms on the upper floors, which requires occupants to use the stairwell to access it. I consider that this arrangement is not harmful to the living conditions of the occupants of the HMO. Furthermore, the provision of a private outdoor amenity space could not reasonably be expected given the constraints of the site, which includes an existing retail unit on the ground floor. In this respect, I do not find conflict with saved Policy HO5 of the Brighton and Hove Local Plan 2005. Whilst I have not found harm in respect of these matters, it does not overcome my concerns in relation to the poor levels of light and outlook to the communal kitchen/dining room.
12. For the reasons given above, I conclude that the proposed development fails to provide satisfactory living conditions for its occupants. It is therefore contrary to saved Policy QD27 of the Brighton and Hove Local Plan 2005, which states, amongst other things, that planning permission for any change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents and occupiers.

Conclusion

13. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

C Osgathorp

INSPECTOR