



---

## Appeal Decision

Site visit made on 7 January 2020

**by David Troy BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 January 2020**

---

**Appeal Ref: APP/Q1445/W/19/3229668**

**10 Mayo Road, Brighton BN2 3RJ**

- 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 Peter Bell against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/04222, dated 22 December 2017, was refused by notice dated 26 November 2018.
  - The development proposed is change of use from small house in multiple occupation (C4) to one 1no bedroom flat (C3) at lower ground floor level and small house in multiple occupation (C4) above.
- 

### Decision

1. The appeal is allowed and planning permission is granted for change of use from small house in multiple occupation (C4) to one 1no bedroom flat (C3) at lower ground floor level and small house in multiple occupation (C4) above at 10 Mayo Road, Brighton BN2 3RJ in accordance with the terms of the application, Ref BH2017/04222, dated 22 December 2017, 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: 1699 P.01 received 22.12.2017.
  - 3) The development hereby approved shall be implemented in accordance with the proposed layout detailed on drawing no. 1699 P.01 received 22.12.2017 and shall be retained as such thereafter. The rooms within the House in Multiple Occupation annotated as Kitchen/Living shall be retained as communal space and neither of these rooms shall be used as bedrooms at any time.
  - 4) The House in Multiple Occupation hereby permitted shall not be occupied by more than four persons at any one time.
  - 5) The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, 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.

## **Procedural Matters**

2. I have used the Council's description of the development in reaching my decision as it more fully describes the details of the development than that given on the original planning application form. The appellant's appeal form also makes reference to the updated description.
3. The Council's decision letter describes the development as retrospective. However, it was clear from my site visit that the layout of the property accorded with the existing floor plans shown on the submitted drawing no. 1699 P.01 and that the proposed change of use had not taken place. I shall determine the appeal on this basis accordingly.

## **Main Issues**

4. The main issues are:
  - (i) whether the proposed development results in the loss of a small family dwelling; and
  - (ii) the effect of the proposed development on the living conditions of the future occupants with particular regard to internal space and standard of accommodation.

## **Reasons**

### *Small family dwelling*

5. Saved Policy HO9 of the Brighton and Hove Local Plan 2005 (BHLP) states that planning permission will only be granted for the conversion of dwellings into smaller units of accommodation when the original floor area is greater than 115 sqm, or the dwelling has more than 3 bedrooms as originally built. The policy also indicates one unit of accommodation should be provided that is suitable for family occupation and has a minimum of two bedrooms. The supporting text of the policy explains that this is due to a high level of demand for smaller dwellings suitable for family accommodation within the City.
6. Whilst I note the Council comments regarding the potential opportunities for conversion of a House in Multiple Occupation (HMO) to a C3 dwelling under permitted development rights, in this case the property is already used as an HMO. Therefore, the principle of whether or not the development results in the loss of a small family dwelling or a conversion to a small dwelling suitable for family accommodation is not considered relevant and would not warrant sufficient grounds for withholding permission in this case.
7. However, even if this is disputed, whilst the development falls below the floor area threshold, the appellant has indicated that the original dwelling when first built would have had in excess of 3 bedrooms as originally built. Little substantive evidence has been provided by the Council to the contrary. As the HMO would be capable of occupation by up to 4 people, the provision of one unit of accommodation suitable for a single family dwelling that has a minimum of two bedrooms would be possible with some reconfiguration. Accordingly, I find no conflict with Saved Policy HO9 of the BHLP.

*Living conditions of the future occupants*

8. The appeal property comprises a three-storey terraced property with living accommodation in the roofspace located on the eastern side of Mayo Road. The appeal scheme entails the change of use of a 6 Bedroomed HMO into a one 1no. bedroom flat (C3) at lower ground floor and an HMO above with a total of four bedrooms which would allow an occupancy of up to four individuals.
9. The proposed reconfiguration of the internal layout of the building would result in the conversion of the existing living/dining room on the lower ground floor into a bedroom and the change of the existing bedrooms on the ground floor into a kitchen/living room to serve the occupants of the HMO above.
10. I saw at my site visit that the lower ground floor rooms, that would be used for the one bedroom flat, are of a practical shape, a reasonable size and a good layout. The occupants would also have access to the small garden at the rear of the property. In my view, the proposed spaces would offer ample opportunity for the future occupants of the proposed flat to conduct day-to-day activities, and for relaxation and recreation outside of the bedroom. I therefore consider that a satisfactory living environment would be provided for the future occupants of the proposed flat as a result of the change of use.
11. Moreover, I observed that the bedrooms at first floor level and within the roof space are of a regular shape, have good headroom, and contain adequate amounts of furniture in all of the rooms including desks. The inward swing of their doors would not restrict the capacity of the bedrooms to accommodate furniture or inhibit circulation around the rooms to any material degree. Consequently, the bedrooms within the proposed HMO are not unduly cramped.
12. It has been put to me that the internal space within the one bedroom flat at lower ground floor level and two of the bedrooms at first floor level within the proposed HMO would not meet the Government's Nationally Described Space Standards (NDSS). The National Planning Policy Framework (the Framework) and National Planning Policy Guidance (PPG) make it clear that Local Planning Authorities need to gather evidence to determine whether there is a need for additional standards in their area and justify setting appropriate policies in their Local Plans<sup>1</sup>. In this case there is no such current adopted policy, however the Council sets out that draft policy in the Brighton and Hove City Plan Part 2 proposes to adopt the NDSS and indicates a direction of travel.
13. Consequently, while the NDSS is a consideration to which I have regard, it is one to which I can attach only limited weight at this time. In this case while the one bedroom flat and two bedrooms are slightly below the NDSS minimum standard, I have found no conflict with the development plan in respect of the accommodation the proposed development would provide.
14. Taking all matters into account, I am satisfied that the development would not have an unacceptable impact on the living conditions of the future occupants, with particular regard to internal space and standard of accommodation. Accordingly, there would be no conflict with Policy QD27 of the BHLP which seeks, amongst other things, to ensure development does not cause material nuisance and loss of amenity to the proposed occupiers.

---

<sup>1</sup> National Planning Policy Framework 2019 (Footnote 46) and PPG ID: 56-020-20150327

### **Other Matters**

15. The appeal site lies within the Round Hill Conservation Area (CA). Special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the area. No external changes are proposed to the property and as such I consider there would be no material impact. The development therefore preserves the character and appearance of the CA.

### **Conditions**

16. Having regard to the Framework and in particular paragraph 55, I have considered the conditions based on those suggested by the Council. In addition to the standard time limit condition, I have specified the approved plans as this provides certainty. The conditions relating to the maximum occupancy of the property as an HMO and the use of the kitchen/living room as a communal space for the HMO are necessary in the interests of amenity and highway safety in the area. A condition relating to the cycle parking facilities is necessary in the interests of promoting sustainable forms of transport.

### **Conclusion**

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

*David Troy*

INSPECTOR