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# Appeal Decision

Site visit made on 19 April 2021

**by Robert Parker BSc (Hons) Dip TP MRTPI**

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

**Decision date: 19 May 2021**

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**Appeal Ref: APP/Q1445/W/20/3262715**

**31 Tidy Street, Brighton BN1 4EL**

- 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 John Wright against the decision of Brighton & Hove City Council.
  - The application Ref BH2020/01448, dated 28 May 2020, was refused by notice dated 19 October 2020.
  - The development proposed is change of use from single dwellinghouse (C3) to flexible use residential and 4 No. bedroom small house in multiple occupation (C3/C4). Associated internal alterations.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The above description of development is taken from the application form. The appellant has since agreed to amend the wording to remove reference to the flexible use. Revised plans have also been submitted<sup>1</sup>. The Council considered the application against these plans and on the basis that permission is being sought for change of use to a four bedroom small house in multiple occupation (HMO) (Use Class C4). My determination is made in the same manner.
3. The property is already occupied as an HMO by four persons and planning permission is being sought retrospectively for this change of use. Further internal alterations would be required to achieve the layout shown on the submitted plans. No external works are being proposed.

## Main Issue

4. The main issue is whether the HMO provides an acceptable living environment for its occupants, with particular regard to the quality and quantity of the communal space.

## Reasons

5. No 31 Tidy Street is a two-storey terraced property with a lower ground floor in the basement. The plans indicate that it was previously laid out as a three bedroom house with a generously sized lounge at ground floor and a kitchen, dining room and bathroom in the basement. The layout has since been altered

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<sup>1</sup> Drawing no. 01 Revision V1, dated 31 July 2020

- to provide a total of four bedrooms across the ground and first floors, and a kitchen and communal area in the basement. The bathroom remains in the same position, but an additional toilet is being proposed on the first floor.
6. The Council raises no concerns regarding the HMO bedroom sizes. I have no reason to take a different view, bearing in mind that the bedrooms meet or exceed the requirements set out in the Nationally Described Space Standards. The dispute between the parties relates to the adequacy of the communal space. Even with bedrooms of an acceptable size, it is reasonable to expect that occupants of the HMO should have access to a good standard of communal accommodation in which to prepare food, dine and mix with fellow residents. Social interaction is important for mental health and well-being.
  7. Under the proposed layout, the kitchen would be fully enclosed as a result of the need for a fire door. The room has been fitted with modern artificial lighting but its occupants would still benefit from being provided with natural light. I note that a light well has been permitted previously but was never implemented. The kitchen is compact but it is of satisfactory size for a four bedroom HMO, given that the residents can often have different schedules for meal preparation. Although it is a separate control regime, it is relevant to note that the Council's licensing standards deem the 8m<sup>2</sup> kitchen adequate for up to five occupiers, one more than is actually resident at the property.
  8. The remainder of the communal space is labelled as 10m<sup>2</sup> on the plans. Whilst on the face of it this may sound reasonable, much of the floor area is needed as circulation space to access the kitchen and garden. There is some scope to adopt an alternative furniture layout to that shown on the plans, and different groups of residents may have their own preferences, but in my opinion the room is too cramped to enable residents to dine and relax together in comfort without getting in each other's way or obstructing views of the television.
  9. The communal area is served by a glazed door and a small window which looks out beneath an outrigger. These provide an acceptable outlook onto the small rear garden. At the time of my visit, the weather was particularly summery and the room was illuminated with reflected sunlight. However, on a dull day there is the potential for this space to become dark and gloomy. Although residents of the dwellinghouse would have suffered with the same issue, the basement accommodation was more focused towards 'short stay' activities and residents would have spent more time in the lounge at ground floor level.
  10. I acknowledge that the current tenants of the property are content with the present arrangements. I also accept that the garden is of sufficient size for outdoor relaxation, with the outrigger providing shelter from the elements. Nonetheless, the deficiencies of the basement layout in terms of the communal area and access to natural light lead me to the conclusion that the HMO fails to provide an acceptable living environment for its occupants. There is therefore conflict with the requirements of Policy QD27 of the Brighton and Hove Local Plan 2005 in relation to the protection of amenity for the users of development.

### **Other Matters**

11. I have taken account of the possibility that double occupancy of one or more of the bedrooms would free up other rooms for communal use. However, this is a theoretical scenario and therefore I have made my assessment on the basis of the bedroom layout shown on the submitted plans.

12. Draft Policy DM7 of the emerging City Plan Part Two sets out more prescriptive space standards for communal areas in HMOs. This policy has not yet been examined and therefore it cannot be afforded any significant weight. However, it is indicative of the direction of travel of planning policy in Brighton and Hove. The scheme accords with the requirements of emerging policy in relation to the quantity of communal space, but paragraph 2.69 of the supporting text refers to the need to consider the usability and configuration of the space. I deem these qualitative aspects of the appeal scheme to be inadequate.
13. It is likely that the current tenants will need to find alternative accommodation in the event of the property reverting to a C3 dwellinghouse. However, there is no suggestion that such accommodation is unavailable but in any event the timescales for the move could be agreed with the Council.
14. Interested parties have raised a number of other concerns, as summarised in the officer report. However, based on the information before me, none of these matters are central to the outcome of the appeal.

### **Conclusion**

15. For the reasons given above I conclude that the appeal should be dismissed.

*Robert Parker*

INSPECTOR