



Appeal Decision

Site Visit made on 10 May 2021

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 June 2021

Appeal Ref: APP/Q1445/W/20/3265549

12 Reeves Hill, Brighton BN1 9AS

- 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 Mark Haskett (HJ Property Ltd) against the decision of Brighton & Hove City Council.
 - The application Ref BH2020/00999, dated 3 April 2020, was refused by notice dated 17 July 2020.
 - The development proposed is the change of use from a (C3) dwellinghouse to a (C4) small house in multiple occupation.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a (C3) dwellinghouse to a (C4) small house in multiple occupation at 12 Reeves Hill, Brighton BN1 9AS in accordance with the terms of the application, Ref BH2020/00999, dated 3 April 2020, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. Some interested parties suggest that the proposed change of use has already been carried out. At my site visit, which included internal access to the appeal property, I saw that this was not the case. I have therefore determined the appeal on this basis.

Main Issue

3. The main issue is the effect of the development on the living conditions of future residents with regard to the layout and useability of the internal communal area.

Reasons

4. The appeal property (No 12 Reeves Hill) is one half of a pair of semi-detached houses in a street of similar houses, within a residential suburb. The proposal would change the use of the property to a House in Multiple Occupation (HMO), providing five single bedrooms for five residents. As proposed, the lounge would become a bedroom and the open plan kitchen and dining room would be retained as a communal area, with a dining table and chairs provided in the kitchen part, to become a kitchen/diner, while the dining room part would become a lounge. The Council is concerned about how this communal area would function in terms of its layout and usability by future residents.
5. The communal area would be relatively compact for the proposed uses. Nonetheless, as the appellant's plans show, and as I saw at my site visit, the

- floorplan dimensions of this space would be reasonably wide and long and it would have an efficient regular shape and largely unrestricted internal volume.
6. HMOs are mainly occupied by unrelated, semi-independent residents and consequently, be they students, young professionals or lower paid workers, they are likely to have different daily schedules. As a result, residents are more likely to usually prepare meals and eat at different times to one another, or perhaps do so in smaller groups. It is therefore less likely that all five residents would want or need to frequently use the kitchen simultaneously or eat together. However, even if they did, the communal area would include sufficient space and facilities within the kitchen/diner to allow up to five residents to separately prepare meals at the same time and, if they so wished, to sit around a dining room table together.
 7. For similar reasons, it is also unlikely that all five residents would want or regularly need to use the lounge at the same time. Some may wish to use the lounge whilst others may prefer to use their own rooms and at times, some residents may be out of the house. Moreover, all of the proposed bedrooms would exceed the Council's HMO floor area licencing standards¹ and, in particular, four bedrooms would be reasonably large. These bedrooms would therefore also be conducive to some social use with other residents, or even for eating some meals, and residents may as a result spend more time in their own rooms. Consequently, this would likely reduce the frequency or duration of 'full' occupancy or use of the communal area.
 8. Notwithstanding the above, as shown in the appellant's plans, at least four residents could nonetheless be seated in the lounge. Even if this requires seats or a television to be placed into corners of this room that would not be unusual or therefore unacceptable in itself. It is possible that seating could be increased by replacing a chair with a two seater sofa next to one of the French doors, which being outward opening would not unduly interfere with their use. Alternatively, a chair in the kitchen/diner could on occasions conveniently be moved closer towards the lounge area.
 9. There would also be space for a small 'coffee' table, which could therefore be conveniently moved on occasions if necessary. Furthermore, a television in the position shown in the appellant's plans might be wall mounted or placed on a mobile unit and so would not unduly restrict occasional access to the under stairs storage cupboard, which currently opens out into the dining room. There would also be additional convenient storage space within the adjoining utility room, which at the time of my visit included a washing machine and tumble drier. In any event, it is likely that residents would prefer to keep personal items in their own rooms as opposed to in the lounge. The need for additional significant items of furniture in the lounge is therefore likely to be limited.
 10. The lounge would also be used in part for circulation space and as a thoroughfare to access the kitchen/diner, the rear garden and the utility room, which also includes a separate toilet and shower room. However, it is not uncommon or therefore unacceptable per se for a lounge area to flow largely seamlessly into a kitchen/diner area, as in this appeal, with the commensurate movement of people through the lounge. Furthermore, even if laundry facilities remain in the utility room this would not result in additional movements

¹ Houses in Multiple Occupation (HMOs) standards,

through the lounge above that which would otherwise be necessary to use laundry facilities in the kitchen.

11. Moreover, it is possible that the toilet and shower room could be 'assigned' to the resident of the ground floor bedroom. If so, this could reduce the frequency of movements through the lounge in this regard; but if not, there would be a communal toilet and bathroom on the first floor. Accordingly, not all residents, including in the ground floor bedroom, would need access through the lounge for this purpose. In addition, in many HMOs the only means of access to a rear garden is internally through a communal lounge, though in this appeal there is also external access around the side of the house, which could therefore reduce the need for, and frequency, of movements through the lounge for this purpose.
12. The space and gaps between some furniture or residents using the lounge would be relatively tight but not obstructive to its use. As a result, movement through the lounge would not be overly restricted. Moreover, residents already using the lounge would not generate extraneous additional movements through this space from other parts of the appeal property or therefore cause additional disturbance. The need for people to move through the lounge would not therefore unduly limit the useable floor area of the lounge or unduly interfere with the use of the lounge by residents.
13. Accordingly, the proposal would provide sufficient space and seating for cooking, dining, relaxation and socialising commensurate with the nature and likely occupation of the HMO, including that five residents would be able to live and spend time together comfortably in the communal area. There is no compelling evidence before me that it would not be 'fit for purpose' or be 'inadequate', as the Council suggests. Nor that its extent would exert an unpleasant influence on use and encourage residents to otherwise spend an inordinate or disproportionate amount of time in their own individual rooms, rather than choosing to make appropriate use of the communal area.
14. The proposal would provide an acceptable standard of accommodation for future occupants of the HMO and would function well with regard to the layout and useability of the internal communal area. It would accord with Policy QD27 of the Brighton & Hove City Plan Part One, March 2016 (CP). Amongst other things this policy seeks to avoid any material loss of amenity to proposed occupiers. It would also be consistent with the National Planning Policy Framework paragraph 127(f) which includes that development should have a high standard of amenity for future users.

Other Matters

15. Some interested parties are concerned about the number of alleged existing or proposed HMOs in the area and a perceived need for family housing, antisocial disturbance including noise, increased traffic and a lack of parking and inadequate property maintenance, including bin storage, impacting adversely on the character and appearance of the area.
16. I note that neither main party considers that the proposal conflicts with CP Policy CP21². This policy supports HMOs in principle but seeks to maintain mixed and balanced communities by resisting changes of use, including 'family'

² Provided in the Council's appeal questionnaire

homes to HMOs, where more than 10% of dwellings within a radius of 50m are already in such use. On the objective evidence before me, this control limit would not be breached in this appeal. There is therefore no reasonable justification for me to take a different view in this regard.

17. There would be a change to the nature and behavioural use of the appeal property. However, it can already be occupied by a large family of five people. I would therefore expect that the level of activity and associated potential for disturbance from the proposed HMO use would not be materially different, including that some future residents may own cars. There is no objective evidence before me to suggest that there is inadequate on-street parking, which I saw is available next to or within a convenient distance of the appeal property, or that the increased traffic would result in unacceptable harm. The Council, or other relevant public authority such as the Police, has separate regulatory powers to address antisocial disturbance, including statutory noise nuisance, and to remedy the condition of land or buildings harmful to the amenity of an area. I have included a planning condition to address the concerns about refuse storage. I note that the Council did not object for any of these reasons.

Conditions

18. The Council has suggested some conditions³. The appellant has been able to consider these and does not object to them. I have considered these conditions and where necessary I have modified the wording in the interests of clarity and in light of the tests and advice in Framework paragraph 55 and in Planning Practice Guidance.⁴
19. I have included the compulsory standard time limit condition to ensure that the development must be begun not later than the expiration of the specified period. I have also imposed conditions so that the Council can approve details of secure cycle parking and for storage of refuse and recycling, including so that the approved details are maintained thereafter. These would, respectively, encourage the use of this mode of travel by residents and visitors, rather than the private car, and ensure that residents would have an appropriate standard and type of refuse collection facility.
20. There is no operational development in the appeal proposal, so it is not necessary to impose a standard approved plans condition. However, for the reasons explained in the main issue above, I have imposed conditions to ensure that the communal area is retained in its entirety as a lounge and a kitchen/diner, so as to meet the reasonable needs of five residents in these regards, including to prevent its use as a bedroom and occupation of the appeal property by six residents.

Conclusion

21. For the reasons given above I conclude that the appeal should succeed.

Robin Buchanan

INSPECTOR

³ Council's appeal statement

⁴ Paragraph ID: 21a-003-20190723

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The HMO use hereby permitted shall not be first occupied until details of secure cycle parking and for the storage of refuse and recycling have been submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented prior to first occupation and shall thereafter be maintained for these uses at all times.
- 3) The HMO use hereby permitted shall not be first occupied until the ground floor rooms annotated 'communal space' in the proposed ground floor plan hereby approved (drawing number COU.01) have been provided as a lounge and a kitchen/diner in accordance with the approved plan. These rooms shall thereafter be retained for these purposes and not for any other use, including a bedroom.
- 4) Notwithstanding the provisions of Class C4 in Part C of Schedule 1 to the Town and Country Planning (Use Classes) Order 1987 (as amended)(or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), the HMO use hereby permitted, and the occupation of the appeal property, shall comprise a maximum of five (5) residents.