

Appeal Decision

Site visit made on 16 June 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2021

Appeal Ref: APP/Q1445/W/21/3267439

22 Crescent Road, Brighton BN2 3RP

- 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 Chris Townsend against the decision of Brighton & Hove City Council.
 - The application Ref BH2020/01986, dated 21 July 2020, was refused by notice dated 15 December 2020.
 - The development proposed is change of use of a single dwelling (C3) to a four bedroom small house in multiple occupation (C4).
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Decision

1. The appeal is allowed and planning permission is granted for change of use of a single dwelling (C3) to a four bedroom small house in multiple occupation (C4) at 22 Crescent Road, Brighton BN2 3RP in accordance with the terms of the application, Ref BH2020/01986, dated 21 July 2020, subject to the conditions set out in the attached schedule.

Procedural Matter

2. The proposal was revised during the course of its consideration to delete a screen around a roof terrace. The Council made its decision against the amended plan and I have determined the appeal on the same basis.

Main Issues

3. The main issues are:
 - a) whether the proposed house in multiple occupation (HMO) would provide acceptable living conditions for its occupants; and
 - b) the effect of the development on the living conditions of the occupiers of neighbouring properties, with reference to noise, disturbance and privacy.

Reasons

Quality of living environment

4. The appeal property is a maisonette set over the first and second floors of a mid-terrace Victorian building. The existing floor plans show the accommodation laid out as a four bedroom home with a living room, kitchen, toilet/shower room and two bedrooms at first floor and two further bedrooms in a loft conversion. One of the latter bedrooms has direct access onto a roof terrace.

5. Since the plans were prepared, works have been undertaken to convert the toilet/shower room to a bedroom and to provide a replacement toilet/shower room. The latter is compact, but the new facilities are of good quality and fit for purpose. Now that they have been completed, there is every probability that the facilities would be retained even if the property remains as a C3 dwelling.
6. The proposal would maintain this as a 4-bed property. The bedroom in the former bathroom would replace a bedroom at second floor which has restricted ceiling height. That room would be relegated to storage. All bedrooms exceed the Nationally Described Space Standards and as such they are of a satisfactory size. Although the Council has not formally adopted the national standards, I note that it is proposing to do so as part of the Draft City Plan Part 2.
7. Turning to communal space, the living room is spacious and its bay window provides a plentiful amount of natural light. The kitchen is smaller but it is adequately sized. There is no dedicated space for dining but there is room for this activity to take place in the living room.
8. Overall, I consider the layout and standard of accommodation to be satisfactory for a household of up to four residents, whether they be a small family or four independent persons sharing. The occupancy levels would be directly comparable. I therefore conclude that the proposal would provide acceptable living conditions for future occupants. There would be no conflict with Policy QD27 of the Brighton & Hove Local Plan 2005 (LP) insofar as it seeks to protect the amenity of proposed occupiers.

Living conditions of neighbours

9. Following conversion of the toilet/shower room, the existing property now has five bedrooms. Even with some of those rooms being used for incidental purposes (e.g. as a home office or guest bedroom), the dwelling could be occupied by a family of four adults or a family with children. The level of activity generated by a four person HMO would be similar to this fallback position.
10. Policy CP21 of the Brighton and Hove City Plan Part One (2016) recognises the importance of HMOs in delivering affordable accommodation for students of the City's educational institutions. To secure mixed and balanced communities, the policy seeks to avoid over-concentrations of HMOs and states that permission will not be granted where more than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use. According to the policy supporting text, the Council maintains a database of properties in HMO use, drawing upon a variety of information sources, and endeavours to keep this up to date.
11. The Council concedes that the 10 per cent threshold would not be exceeded in this particular case. The officer report explains that there are 6 authorised HMOs within 50 metres of the appeal site, representing 7.1 per cent of the total number of properties within the policy radius. Although HMOs do have cumulative impacts, attributable in part to the transient nature of their residents, the proposal would not lead to an over-concentration in the locality of the appeal site. A balanced community would be maintained.
12. The roof terrace provides opportunities for outdoor socialising and the Planning Committee was concerned that this would lead to noise and disturbance for neighbours. Concern has also been raised regarding overlooking of adjoining

gardens. The terrace leads directly off one of the bedrooms and the owner of the bedroom would need to grant access in order for others to use it. There would be nothing to prevent small gatherings, but equally this may also happen with the property in use as a dwelling. Given that the terrace is lawful, this is a realistic fallback which I must take into account. Although there are some views into nearby gardens, there would be no additional overlooking with the property in HMO use.

13. There can be no cast iron guarantee that problems of noise and disturbance will not arise from the proposed change of use, as this will depend on the particular group of occupiers. Nevertheless, the probability is that occupation of the property as a four bedroom HMO would not be materially different to that of a C3 dwellinghouse, in terms of its impacts on neighbours. I therefore conclude that there would be no conflict with the requirement of LP Policy QD27 that development should not cause material nuisance and loss of amenity to adjacent residents.

Other Matters

14. I understand that purpose-built student accommodation has been constructed, or is under construction, in the area and that this could curtail the need for additional dwellings to be converted to HMOs. However, this in itself would not be reason to dismiss the appeal, not least because there is also demand for shared housing amongst young professionals.
15. The Highway Authority advises that the proposal is unlikely to result in a significant increase in trip generation. This, and the fact that the existing property could be occupied by four adults at present, means that there is no justification for requiring occupiers of the HMO to relinquish their right to apply for parking permits.
16. The site lies within the Round Hill Conservation Area. However, the proposal would not alter the external appearance of the building and its impact on the character and appearance of the conservation area would be neutral.

Conditions

17. In addition to the standard commencement condition, I have attached a condition specifying the approved plans to provide certainty. In the interests of delivering an acceptable living environment, conditions are needed to restrict the occupancy of the HMO to four persons and to require the retention of the communal areas. A further condition is necessary to secure details of refuse and recycling storage, to ensure satisfactory provision and prevent nuisance.

Conclusion

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

Robert Parker

INSPECTOR

SCHEDULE OF 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: Drawing no. 2134.02 Revision D.
- 3) The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in full accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
- 4) The kitchen and living/dining room and storage area as detailed on the approved plans shall be retained as communal space at all times and shall not be used as bedrooms.
- 5) The hereby approved development shall only be occupied by a maximum of four (4) persons.

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