



Appeal Decision

Site visit made on 13 June 2022

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022

Appeal Ref: APP/Q1445/W/21/3285699

239 Queens Park Road, Brighton, East Sussex BN2 9XJ

- 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 Samuel Bishop of Bishop Properties Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2021/02632, dated 14 July 2021, was refused by notice dated 9 September 2021.
 - The development is use of single family dwelling house (C3) as house in multiple occupation (HMO)(C4).
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Decision

1. The appeal is allowed and planning permission is granted for use of single family dwelling house (C3) as house in multiple occupation (HMO)(C4) at 239 Queens Park Road, Brighton, East Sussex BN2 9XJ in accordance with the terms of the application, Ref BH2021/02632, dated 14 July 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The property was already in use as a small HMO at the time of my visit. I have proceeded on the basis that permission is being sought retrospectively for the change of use.
3. The tenants of the HMO have opted for a different ground floor layout to that shown on the plans, with the front room being used as a sitting room (as per the former dwelling layout) and the room behind as a bedroom. Amended plans have been submitted to reflect this change. No party would be prejudiced if I determined the appeal based on those amended plans.

Main Issue

4. The main issue is whether the HMO provides satisfactory living conditions for its occupants, with particular regard to communal space.

Reasons

5. The HMO contains four good-sized bedrooms, one on the ground floor, two at first floor and another within a loft conversion. There is a kitchen at the rear of the building and a room with bay window at the front which is occupied as a lounge. At the time of my visit, this room was laid out with a pair of 2-seat sofas and a projector television on a coffee table. The property contains a main bathroom, separate toilet (not shown on the plans) and two en-suites within bedrooms. There is a private patio at the back of the property.

6. The development plan does not contain any numerical standards relating to the size of communal space in HMOs. Policy QD27 of the Brighton and Hove Local Plan 2005 (LP) is broad brush in seeking to ensure that changes of use do not result in loss of amenity to the proposed residents or detrimentally affect human health. Whether a particular proposal complies with this policy is therefore a matter of planning judgement.
7. The Brighton and Hove City Plan Part Two is currently undergoing examination and its policies are a material consideration. Policy DM7 stipulates that communal living space and cooking and bathroom facilities within HMOs should be provided appropriate in size to the expected number of occupants. The supporting text states that the minimum size of usable communal living space should be 16 m², equating to 4 m² per person, assuming a small four person size HMO. However, other factors such as the usability and configuration of the space will also be taken into account. This can include the size of the bedrooms and the extent of their ability to function as social areas.
8. Policy DM7 of the emerging plan requires HMOs to comply with the space standards set out in Policy DM1. These derive from the nationally described space standards which require single bedrooms to have a floor area of at least 7.5 m² and a minimum width of 2.15 m. There is no dispute that the bedrooms meet these requirements. The bedrooms are generously proportioned and range in size between 10.6 m² and 12.1 m². This is well in excess of that required for single occupancy. The walk-in wardrobe in Bedroom 4 and two en-suites contribute to a high quality of bedroom accommodation.
9. The Council accepts that the property meets the numerical requirements for communal space under the supporting text of Policy DM7¹ but argues that there should also be a qualitative assessment to ensure a high standard of amenity. The galley style kitchen is compact, but it provides a generous amount of worktop for food preparation and enables more than one resident to cook simultaneously. Residents have the option of eating meals in the sitting/dining room or within their own bedroom. There is space within the former to add a dining table, should residents opt to use the space in this way.
10. Particular concerns have been raised over the manoeuvring of bicycles through the kitchen and into the rear yard. Such activity would be a brief interruption for occupants of the kitchen and it would not affect the usability of the space.
11. One of the main aims of emerging planning policy is to ensure social cohesion. Residents of HMOs should not be confined to their bedrooms; they should have the opportunity to mix and relax in each other's company. It was evident from my inspection that the property is set up to achieve this. The communal spaces, although relatively modest, are appropriate to a four person HMO and they provide satisfactory living conditions for the occupants of the property. As such, there is no conflict with Policy QD27 of the LP, or with emerging policy.

Other Matters

12. The officer report states that the development complies with thresholds, set out within Policy CP21 of Brighton and Hove City Plan Part One (2016), aimed at preventing the over-concentration of HMOs. There is no substantive evidence to support the suggestion that the assessment is inaccurate. Although HMO uses

¹ The plans indicate that the sitting/dining room measures 12.24 m² and the kitchen 8.28 m².

may give rise to anti-social behaviour, a four bedroom property is unlikely to be materially different to a family dwelling in terms of its overall noise impact.

13. The property is located within a Controlled Parking Zone (CPZ) which is already operating over capacity. However, the officer report explains that the Local Highway Authority is able to limit the issue of parking permits through its management of the CPZ. Consequently, the impact of the development on parking in the locality would not be a reason to dismiss the appeal.
14. I have taken account of other concerns raised by local residents, including those relating to the proximity to an Airbnb property. However, based on the information before me, there are no grounds to dismiss the appeal.

Conditions

15. I have imposed a condition specifying the approved plans, to provide certainty. The application has been assessed as being acceptable on the basis of there being a maximum of four residents. A condition is necessary to secure this level of occupancy, and to ensure that the communal areas are retained for residents. To promote the use of sustainable transport modes, a further condition is needed to require the provision of secure cycle storage.

Conclusion

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

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the approved drawing nos 2368/19/LP1, 2368/19/BP1 and 2368/19/HMO1 Rev C.
2. The development hereby permitted shall be occupied by a maximum of four (4) persons.
3. The areas marked as kitchen and sitting/dining room, detailed on drawing 2368/19/HMO1 Rev C, shall be retained as communal space at all times and shall not be used as bedrooms at any time.
4. Notwithstanding the submitted details, and within 3 months of this decision, secure cycle parking facilities for the occupants of, and visitors to, the development shall be provided in accordance with details that have been first submitted to and approved in writing by the local planning authority. The approved facilities shall be retained for use at all times thereafter.

***END ***