

Appeal Decision

Site visit made on 26 April 2016

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 May 2016

Appeal Ref: APP/Q1445/W/15/3140528

9 The Crescent, Brighton BN2 4TB

- 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 Oliver Dorman against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/02442, dated 3 July 2015, was refused by notice dated 23 October 2015.
 - The development proposed is the change of use of existing C4 House in Multiple Occupation to Sui Generis HMO.
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Decision

1. The appeal is allowed and permission is granted for the change of use of existing C4 House in Multiple Occupation to Sui Generis HMO at 9 The Crescent, Brighton BN2 4TB, in accordance with the terms of the application, Ref BH2015/02442, dated 3 July 2015, subject to the attached schedule of conditions.

Preliminary Matter

2. The building had already been converted on the date of the site visit and residents were in occupation.

Main Issues

3. The main issues are:
 - whether the development provides acceptable living conditions for its occupiers; and
 - the effect of the development on the mix and balance of the community in the area and the living conditions of nearby occupiers.

Reasons

Living conditions

4. No 9 The Crescent is a two storey mid-terrace house in a road of similar properties. It is set back behind a front garden with a tall hedge on the frontage and has a good sized garden to the rear. The property has been used since 2004 as a house in multiple occupation (HMO) with five separate bedrooms let to students. There is no dispute that the property has a lawful C4 use as an HMO for up to 6 occupants.

5. The property has recently been reconfigured and internal alterations carried out to create eight separate bedrooms, which amounts to a change of use from class C4 to a large HMO, a sui generis use. In particular, the ground floor living room has been subdivided into two new bedrooms and the previous ground floor bedroom reduced in size to allow access to a refurbished and slightly enlarged communal kitchen/dining room. Upstairs the large front bedroom has been subdivided into two bedrooms and the previous wc and bathroom converted into two wc/shower rooms.
6. As a result the largest bedrooms and communal living room have been lost and additional, smaller bedrooms have been created in their place. According to the plans the bedrooms were previously 14.45, 10.5, 8.51, 7.17 and 6.24 m² respectively in size, whereas now they are 9.06, 8.4, 8.06, 7.9, 7.17, 6.76, 6.63 and 6.57 m². The only communal living space now is the kitchen/dining room, about 20.38 m² in size, but this has recently been refitted with cooking, refridgeration and storage facilities that appear adequate for the likely number of users. Although the dining area only seats six persons, in an HMO it is unlikely that this number would be exceeded at any one time.
7. Each bedroom is provided with a single bed, small corner desk and limited storage space. There is little space for any other furniture such as an armchair, particularly in the smaller rooms. The bedrooms are certainly not generous in size, and the smaller rooms in particular are only just sufficient to allow space for sitting, study and storage purposes alongside the bed.
8. The local planning authority have not adopted any space standards for HMOs and rely upon the 'Technical Housing Standards – National Described Space Standards' dated March 2015. These relate to new dwellings rather than HMOs but there is no apparent reason why its guidance, that a single bedroom should be at least 7.5 m² in size and 2.15 m wide, is invalid. Four of the bedrooms meet this standard and my site visit confirmed that these provide an adequate standard of amenity for their occupants.
9. However, following an inspection, the Council has granted the property an HMO license under its additional licensing scheme, stating that the house is suitable for occupation by eight persons. The space standard adopted by the Council in 2012 for HMO licence purposes is 6.5 m² for a single bedroom, which the four smallest bedrooms meet, albeit only just. Whilst the licence has been issued for the purposes of the Housing Act there is no explanation why a higher space standard is being sought under planning as opposed to housing legislation. This leads me to conclude that the size of the four smallest bedrooms would not justify a refusal of the overall scheme in this case. The property is clearly aimed at the short term student market rather than longer term occupiers for whom higher standards would be necessary.
10. The loss of the communal living room is regrettable but this is not an essential requirement within an HMO. The bedroom door within the kitchen area, the stud wall dividing the upstairs bedroom window and some awkward room shapes are symptomatic of a tight layout but not unreasonable in themselves.
11. For these reasons I conclude that the development provides acceptable living conditions for its occupiers and therefore complies with saved Policy QD27 of the Brighton and Hove Local Plan 2005 (the Local Plan) which seeks to prevent the loss of amenity to proposed and existing occupiers.

Mix and balance of the community and living conditions of nearby occupiers

12. The Council argue that the development is contrary to Policy CP21 of the Brighton and Hove City Plan Part One 2016 (the City Plan) which seeks to support mixed and balanced communities across the City and to ensure that a range of housing needs continue to be met. To this end applications for the change of use to an HMO will be resisted where more than 10% of dwellings within 50 m are already in HMO use.
13. In the case of 9 The Crescent there is no dispute that the proportion of dwellings within 50 m that are in HMO use is 29%, well above the policy limit of 10%. However, since the appeal property already has a lawful HMO use this proportion would not change if the appeal is allowed. As such, there is no conflict with Policy CP21. The development would not affect the range of housing types in the area, nor the number of HMOs, just increase the number of occupants within this particular HMO. Although the number of residents would increase from five to eight, this would only be a marginal increase within the neighbourhood as a whole and any effects arising from three extra people living in No 9 are unlikely to be significant.
14. At the time of the site visit the property appeared well managed with the front and rear gardens well maintained and the purpose built refuse/recycling storage area behind the front hedge being used effectively. There was no obvious difference between the standard of maintenance of the property and others in the area, whether HMOs or not. The requirements of the HMO licence include frequent visits to ensure proper management of the property, written agreements for tenants prohibiting anti-social behaviour, the disposal of refuse and recycling and keeping the gardens in good order, all of which would assist in reducing any impact on the living conditions of nearby residents.
15. For these reasons I conclude that the development would not significantly affect the mix or balance of the community in the area in compliance with Policy 21 of the City Plan, nor cause significant harm to the living conditions of nearby occupiers in compliance with Policy QD27 of the Local Plan. The latter seeks to prevent material nuisance and loss of amenity to adjacent residents.
16. The Council suggested one condition should the appeal be allowed and I agree it meets the relevant tests. This is to ensure cycle parking facilities are provided to encourage sustainable travel. It is also necessary to define the plan which has been approved for the avoidance of doubt.

Conclusion

17. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted has been assessed in relation to the following approved plan: Project 1277 Drawing 02.
- 2) Within three months of the date of this decision, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be fully provided within three months of the date of approval and shall thereafter be retained for use at all times.