



Appeal Decisions

Site visit made on 3 February 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2020

Appeal A Ref: APP/Q1445/C/19/3233987 110 Church Road, Hove BN3 2EB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Dieter Haslam against an enforcement notice issued by Brighton & Hove City Council.
- The enforcement notice, numbered ENF/2017/00174, was issued on 4 July 2019.
- The breach of planning control as alleged in the notice is the repainting of the principal façade of the Property.
- The requirements of the notice are to repaint the rendered areas of the main façade of the Property fronting Church Road any single one of the following British Standard colours: - 08 B15 Magnolia; 08 B17 Vellum; 10 B15 Soft White; 08 C31 Buttermilk; 10 C31 Cream.
- The period for compliance with the requirements is 28 days.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal succeeds in part and the enforcement notice is upheld with a variation in the terms set out below.

Appeal B Ref: APP/Q1445/H/19/3234061 110 Church Road, Hove BN3 2EB

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by Mr Dieter Haslam (Laine Pub Company) against the decision of Brighton & Hove City Council.
- The application Ref BH2019/01375, for the externally illuminated fascia sign, dated 1 May 2019, was refused by notice dated 3 July 2019.
- The advertisements proposed were the display of 1no externally illuminated fascia sign and 1no externally illuminated hanging sign.

Summary decision: The appeal is dismissed.

Decisions

Appeal A

It is directed that the enforcement notice is varied by: the substitution of 8 weeks as the period for compliance. Subject to the variation, the enforcement notice is upheld.

Appeal B

1. The appeal is dismissed.

Background

2. Appeal A results from the issue of an enforcement notice, issued against the re-painting of the principle façade of the building. A retrospective planning application was refused for the works under reference BH2019/01374. The enforcement notice was issued following this decision.
3. Appeal B follows a regularising application to the Council for advertisement consent to display two signs. The first was an externally illuminated fascia sign and the second, an externally illuminated hanging sign. The latter sign was granted consent. However, the fascia sign was refused consent in a split decision dated 3 July 2019. Appeal B therefore relates only to the fascia sign.
4. The site lies within the scope of The Avenues Article 4 Direction. This restricts permitted development under the Town & Country Planning General Permitted Development Order 1995, for amongst other things, the change of colour of the façade of specified buildings unless they are painted in smooth masonry paint in one of 5 specified colours.
5. Whilst both appeals relate to the same property, as the matters are unrelated it is my intention to deal with each appeal separately.

Appeal A

Main Issue – Ground (a) and the deemed application

6. I have had regard to the Council's reasons for issuing the notice. I therefore consider that the main issue is the effect of the development on the character and appearance of the Cliftonville Conservation Area (CCA) and the adjacent The Avenues Conservation Area (TACA).

Reasons

7. The site comprises a three storey public house, sited in Church Road which is the main commercial high street in Hove. The building is locally listed and sited within the CCA. It lies adjacent to a group of Grade II listed buildings at 94 to 108 Church Road.
8. The building has an attractive and traditional early 20th century pub frontage, set within an earlier mid-19th century building. The building retains a number of traditional architectural features at street level, including green tiled supports, with ornate brackets above and traditionally etched bay windows. These features, when combined with its use as a public house, make it distinctive and an important focal point in the CAA. This traditional appearance adds to the interest of this part of the CAA and as such it makes a positive contribution to both the CAA and the adjacent TACA.
9. The upper floors of the façade have been painted black, together with the window frames. I acknowledge that the building stands out from the others, as a result of its design and ornate architectural detailing. However, the black painted façade has a harsh appearance and does not enhance the buildings distinctive character, and results in a building that is significantly at odds with others in the area.
10. It is recognised that the various commercial buildings in this part of the CAA are more varied in detail. However, it was clear from my site visit that there is a degree of uniformity within the groups, generally with each complementing

the others. In contrast, the unsympathetic and extensive use of black paint makes the appeal building appear overly prominent and incongruous, when compared with others in the street scene. This prominent appearance has the effect of eroding the positive contribution the building makes to the CAA, and significantly harms the setting of the adjacent group of listed buildings. Overall, I find that this results in significant harm to the character and appearance of the area, setting of the listed buildings and the CCA.

11. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving and enhancing the character or appearance of conservation areas.
12. The National Planning Policy Framework (the Framework) states that harm to a heritage asset might be defined as 'substantial' or 'less than substantial.' However, Planning Practice Guidance advises that in general terms, substantial harm is a high test and that works that are moderate or minor in scale are likely to cause less than substantial harm, or no harm at all. In finding harm to the Conservation Area, due to the small-scale nature of the development, I would quantify its extent to be less than substantial.
13. Nonetheless, I attach considerable importance and weight to that harm, and in applying the test set out in the Framework, I acknowledge the role that public houses play in communities and high streets. The identified benefits for the development seem to relate more to the refurbishment of the building than the black painting of the façade. Accordingly, whilst I recognise that the restoration and improvements, that have been made to the building since 2016 are of public benefit, I do not consider that this is sufficient to offset the harm I have identified.
14. Overall, I find that the development results in an untraditional and inappropriate treatment of the host building, which is unsympathetic, and incongruous. It is therefore harmful to the setting of the Listed Buildings and the CCA. The development is therefore in conflict with saved policies HE3, HE6 and HE10 of the Brighton and Hove Local Plan (2005) (LP) and CP15 of the Brighton and Hove City Plan Part One (2016) (CP). These policies when taken together seek to ensure that development does not have an adverse impact on the setting of listed buildings, including those of local interest. Development should conserve, preserve or enhance the setting of conservation areas and the historic environment.

Ground (g)

15. For this ground it is necessary to consider whether the compliance period of 28 days, is too short. It is the appellant's case that the time given for compliance with the notice is unreasonably short. This is because they will need to instruct builders and arrange for scaffolding. They have requested a timescale of three months for the works to be completed.
16. I note that the Council's statement of case at paragraph 15, refers to an appeal on ground (e). However, this appears to be an error. They go on to say that, should an extension of time be given, then this should not exceed eight weeks, rather than the three months the appellant has requested.

17. I am mindful that the site is located on a busy commercial street. Therefore, arrangements will need to be made to ensure the safety of passers-by when erecting scaffolding and carrying out the required works. Accordingly, I consider that a period of 8 weeks would be a more appropriate timescale to make arrangements and carry out the works. I shall therefore vary the notice to reflect this. The appeal on ground (g) therefore succeeds to this extent.

Other matters

18. My attention has been drawn to previous colours that the façade has been painted, and the colours of other buildings in the area. I acknowledge that the building was previously painted green, but this does not lead me to a different decision. With regard to the other buildings referred to, I do not have any evidence before me to confirm the planning history or status for these. In any event, I have to determine this appeal on its own planning merits, and their presence would not justify granting this appeal.

Appeal B

Main issues

19. As outlined above, this appeal relates only to the fascia sign. At the time of my site visit the sign appeared as indicated in the appellant's appeal statement at paragraph 3.5. I have had regard to the reasons why the Council refused to grant consent for the proposed new fascia. As my assessment is confined to issues of public safety and amenity, I consider that the main issues are, the effect of the proposed fascia advertisement on the amenity of the CAA, the adjacent TACA and the setting of the adjacent listed buildings at Nos 94 to 108 Church Road.

Reasons

20. Whilst the Council has drawn my attention to the policies it considers to be relevant to this appeal, the development plan is a material consideration only. I therefore have regard to relevant provisions of the CP and the LP, and to the related guidance, but these are not, in themselves, determinative factors for my decision.
21. I have already set out the characteristics of the building within the local context and for the sake of brevity do not intend to repeat them here. The building provides an important focal point in this commercial road and the CAA. The original timber fascia was understood to have been positioned across the main frontage of the building and was of traditional design.
22. The new fascia is sited between the main front windows at street level and the bay windows at first floor. The new sign comprises a metal fascia panel that is fitted completely over the original. Whilst of similar scale to the original, the new sign is deeper, extending beyond the ornamental mouldings both above and below. The individual letters making up the 'Old Albion' name, are raised and there are a number of festoon lightbulbs set within each letter. The sign therefore has a very contemporary appearance, when compared to the original and other more 'traditional pub' signs. These factors when taken together result in the fascia appearing more dominant within the frontage, than previously.

23. The fascia is visible from a considerable distance and the distinctive design of the host building further attracts attention from those using the area. Its overly contemporary design and additional bulk is unsympathetic to the host building and introduces a discordant and incongruous feature into the street-scene.
24. Accordingly, I find that the fascia fails to preserve or enhance the historic character or distinctive appearance of the host building, the CCA and the adjacent TACA. Moreover, given its proximity to the listed buildings, at No's 94 to 108 Church Road, I find that it has an adverse impact on their setting.
25. The Framework makes a distinction between development causing substantial harm to the significance of a designated heritage asset, such as a Conservation Area, and development that would lead to less than substantial harm. It goes on to require that less than substantial harm is weighed against the possible public benefits of the scheme. I recognise that the sign would be sufficiently modest, such that the harm to the wider significance of the two Conservation Areas would be less than substantial, but even so, I have not found any overall public benefits sufficient to outweigh the harm I have identified above.
26. For the above reasons I find that the proposed sign is harmful to the character and appearance of both the host building and the CAA, adjacent TACA, and the setting of the Listed Buildings. It would thereby be detrimental to amenity.
27. It is acknowledged that given the busy commercial siting of the property, there are other signs, including modern fascia signs in the area. I saw from my site visit that some of these have had a significant and detrimental impact on the area. I do not however consider that these set a precedent or provide a reason for allowing additional undesirable signage. The appeal has therefore been considered on its own merits.

Conclusions – Appeals A and B

Appeal A

28. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I have therefore varied the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Appeal B

29. For the above reasons, I conclude the appeal should be dismissed as the sign is detrimental to the interests of amenity, for the reasons identified above.

Hilary Orr

INSPECTOR