



Appeal Decision

Site visit made on 12 October 2021

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 02 November 2021

Appeal Ref: APP/Q1445/D/21/3277939

20 Bavant Road, Brighton, BN1 6RD

- 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 Thomas McGrath against the decision of Brighton and Hove City Council.
 - The application Ref BH2021/00916, dated 14 March 2021, was refused by notice dated 7 May 2021.
 - The development proposed is the erection of front boundary wall and 2no pillars. (Part Retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's Decision notice as this succinctly describes the elements which require planning approval. It is also noted that this description of development is repeated on the applicant's appeal form.
3. On my site visit the majority of the existing wall had been demolished with the front garden hard-scaped. According to the Council these alterations do not have planning permission. I have taken this into account in the consideration of this appeal.
4. The appeal documents make references to the National Planning Policy Framework 2019 (the Framework). Since the submission of the appeal, the 2019 version of the Framework has been superseded by the 2021 version. I have considered the appeal on this basis and refer only to the updated 2021 Framework within this decision.

Main Issue

5. The main issue is the effect of the development upon the character and appearance of the appeal building and the locality, with special attention to the Preston Park Conservation Area (CA).

Reasons

6. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in respect of development affecting conservation areas, states that special attention shall be paid to the desirability of preserving or enhancing the character and/or appearance of the area.

7. The CA's significance derives from the formally laid out speculative housing development centred around and between Preston Park and Blakers Park. Whilst dwellings to the eastern section of the CA are tight knit Edwardian terraced dwellings, the streets and dwellings to the north of the CA where the appeal site is located are larger with a mix of Edwardian and inter-war dwellings. The dwellings along this section of Bavant Road are mid-twentieth century and of a lower status than the larger Edwardian dwellings nearby, however these later dwellings present a symmetry in terms of their design and layout and contribute positively to the significance of the CA.
8. Positive characteristics of the CA such as well vegetated front gardens with low boundary walls and gaps in between dwellings provide glimpses between buildings to trees and greenery beyond and are positive characteristics to the open and leafy experience which is part of the inherent positive characteristics of the CA. Alterations to boundary walls are specifically listed within an Article 4 direction for this CA which places further emphasis on the contribution of and importance of requiring permission regarding alterations to such elements. Whilst at some locations where off-street parking does exist, it is generally on driveways alongside buildings leading to garages at the side or rear of the dwelling.
9. In undertaking alterations within CAs, the Brighton & Hove City Plan Part One (CP) Policy CP15 and HE6 of the Brighton & Hove Local Plan (retained policies March 2016) (LP) seek that development is of a high standard which should reflect the scale and character or appearance of the area; and that the city's built heritage guides local distinctiveness for new development in historic areas.
10. There is discussion within the appeal documents to a previous application¹ and dismissed planning appeal² where a scheme was refused on the loss of the front boundary wall and the installation of vehicular parking to the front garden area, similarly as to what was in situ on my site visit. Whilst this current proposal seeks to reinstate more of the front garden as to the previous application; according to the applicant it would present a 60/40 ratio of parking to front garden. Whilst I acknowledge the willingness of the applicant to improve upon the previous application, the proposal would still lead to the loss of front boundary wall, the over-proliferation of hardstanding and the dominance of vehicular parking to the front garden, which would be contrary to the positive characteristics of the CA as described previously.
11. The applicant's Statement of Case (SoC) notes examples of vehicular accesses within boundary walls in the surrounding locality, as well as the neighbouring property. Many of the examples³ presented including the neighbouring dwelling have a vehicular access to the side of the dwelling which appears to be a design characteristic of this particular dwelling which retains a large area of front garden to the front of the dwelling with a vehicular access and driveway to the side of the dwelling. I am unclear whether further examples⁴ took place, such as prior to the designation of the CA, however these small number of examples are not inherent positive characteristics of the CA. As such, the

¹ Brighton and Hove Planning Ref: BH2019/03301

² Appeal Ref: APP/Q1445/D/20/3249420

³ Nos 1, 3, 5, 18, 22, 24 Bavant Road

⁴ Nos 12 Bavant Road and 14, 16 and 18 Knoyle Road

- presence of such vehicular accesses does not provide sufficient justification to cause additional harm to the character and appearance of the CA.
12. Taken as a whole, the proposed alterations to the front boundary of the appeal dwelling would cause unacceptable harm to the authenticity and integrity of the appeal site and the character and appearance of the CA. Consequently, the proposal would be contrary to the LP Policy CP15 and saved CP Policy HE6 as described previously.
 13. The Reason for Refusal in the Council's Decision Notice refers to saved policy QD14 of the LP. This policy concerns extensions and alterations to existing buildings which is not relevant to the consideration of a front boundary wall within the front garden of the dwelling. As such, this policy is not relevant to the consideration of this appeal.
 14. I therefore disagree with the applicant's SoC that the development would not result in any harm to the significance of the CA. Although serious, the harm to the CA in this case would be 'less than substantial,' within the meaning of the term in paragraph 202 of the Framework. Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 202 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
 15. The applicant's SoC notes that the benefits of the scheme would include the installation of a vehicular charging point, as well as the increase in soft landscaping and reintroduction of a longer section of boundary wall and pillars. It is noted that the current situation does not benefit from planning consent so the reintroduction of features such as boundary wall and soft landscaping are not public benefits as they were removed without consent. Whilst the installation of an electric charging point provides some benefit to the council's aims to increasing renewable energy, this itself would not be enough to outweigh the great weight afforded to the conservation of heritage assets.
 16. That said, I therefore find that the public benefits would not outweigh the harm to the CA. The scheme therefore conflicts with the Framework, which directs, at paragraph 199, 'that great weight should be given to the asset's conservation...irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance'.
 17. In conclusion on this matter, I consider the proposed development would cause less than substantial harm to the significance of the CA. It has not been shown that public benefits would outweigh this harm and so the proposal would conflict with the development plan.

Conclusion

18. For the reasons given above, the appeal is dismissed.

J Somers

INSPECTOR