



Appeal Decision

Site visit made on 19 October 2021

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2021

Appeal Ref: APP/Q1445/W/21/3269197

3-4 Western Road, Hove BN3 1AE

- 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 Bellair Developments Management Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2020/02799, dated 1 October 2020, was refused by notice dated 17 November 2020.
 - The development proposed is erection of an additional storey to provide 1 no self-contained one bedroom flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published after the determination of the planning application. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties were given the opportunity to comment on this matter, and I have had regard to the revised Framework in determining this appeal.
3. The Council's submissions have mentioned several emerging Policies of the Brighton and Hove City Plan Part Two (the City Plan Part 2). Although it has yet to be found sound, the City Plan Part 2 has nevertheless reached an advanced stage of preparation, and the relevant policies can therefore be afforded moderate weight.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the Brunswick Town Conservation Area.

Reasons

5. The appeal site comprises a mid-terrace property which forms part of a wider group of four-storey buildings, though the western end also includes some three-storey properties. The buildings are characterised by classical frontages and varying roof forms typically set behind parapet features, which give the street scene a cohesive appearance.
6. The terrace is located within the Brunswick Town Conservation Area, which has been identified as an important example of a planned 19th century estate where

both architecture and uses have been developed and controlled in a manner creating formality and order¹. Whilst the appeal property seems to have lost its traditional roof form and cornice detailing, it nevertheless makes a positive contribution to the Brunswick Town Conservation Area, by virtue of its overall scale and general appearance. In particular, its parapet and central pediment add interest to the surrounding roofscape.

7. The proposed development has been designed to appear as a 'faux mansard' roof, which would be set back from the front wall of the appeal building. Due to its excessive bulk and massing, the roof extension would however result in an incongruous and awkward built form, which would harmfully dominate the host property and differ considerably from the roof forms either side of the appeal building. The harm would be exacerbated by the proposed dormer windows, which would fill a large proportion of the front part of the roof and appear visually cramped. Despite the set-back of the proposal, the ability to appreciate the overall composition of the front elevation would therefore be harmfully diminished.
8. Although the roof extension would not be highly visible along Western Road, it would nevertheless appear unduly prominent in views from York Road. Consequently, the appeal scheme would fail to harmonise with the host building and the wider terrace, and adversely affect the character and appearance of the Conservation Area as a whole.
9. It is accepted that there are many examples of historic dormer windows throughout the Conservation Area, but these are typically modest in scale, and of a smaller size than the openings found on the lower floors. For the reasons given above, the proposed dormers are not however considered comparable to the historic features which make a positive contribution elsewhere in the Conservation Area.
10. I agree that unsympathetic built forms exist in the site's vicinity. However, these do not provide justification for the harm which the appeal development would cause to the Conservation Area, particularly in light of the statutory duty to preserve or enhance the character or appearance of such designated heritage assets.
11. For the foregoing reasons, the proposal would have a harmful impact on the character and appearance of the Brunswick Town Conservation Area which, it follows, would not be preserved or enhanced. The appeal scheme would therefore be contrary to Policies QD14 and HE6 of the Brighton and Hove Local Plan 2005² (LP 2005), and Policy CP15 of the Brighton and Hove City Plan Part One³ (the City Plan Part 1). Amongst other things, these seek to ensure that the city's historic environment is conserved and enhanced, in accordance with its identified significance. Furthermore, they require development proposals to be of a high standard of design and detailing reflecting the scale and character or appearance of the area.
12. The Council's Reason for Refusal includes refers to the design guide for extensions and alterations Supplementary Planning Document (the SPD), though there are limited references to this guidance in the Case Officer's report

¹ Brunswick Town Conservation Area Character Statement.

² Retained Policies March 2016.

³ March 2016.

and the Council's Statement of Case. The appellant has indicated that this document has now been withdrawn, and this has not been disputed by the Council. Although I have been provided with a copy of the SPD adopted on 20 June 2013, little information has been presented to confirm the status of this document or subsequent replacement. This limits the weight which can be afforded to this document.

Other Matters

13. Paragraph 74 of the Framework requires Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The appellant argues that the City Plan Part 1 and the retained policies of the Local Plan 2005 have become out-of-date in March 2021 and require updating. The appellant's submissions also suggest that the Council is currently unable to demonstrate a five-year supply of deliverable housing sites.
14. The lack of five-year housing land supply is not disputed by the Council. In such circumstances, paragraph 11 d) of the Framework, as directed by Footnote 8, advises that the policies which are most important for determining the application are considered out-of-date, and planning permission should be granted. However, individual policies should not be treated as out of date for the purposes of paragraph 11d) simply because of their age or because the development plan is time expired. Due weight should be given to them according to their degree of consistency with the Framework. In this particular instance, Policies QD14 and HE6 of the Local Plan 2005 and Policy CP15 of the City Plan Part 1 are the most important for determining the application. It is my view that each of these Policies is consistent with the Framework and therefore remains up to date.
15. Furthermore, the presumption does not apply where the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. As detailed in Footnote 7 to the Framework, such areas or assets of particular importance include designated heritage assets. The appeal scheme would fail to preserve the special interest of the Brunswick Town Conservation Area, and the policies of the Framework in that regard provide a clear reason for refusing the appeal scheme.
16. For these reasons, the tilted balance set out in paragraph 11d) of the Framework is therefore not engaged in this instance.

Heritage and Planning Balance

17. The proposed development would cause unacceptable harm to the Brunswick Town Conservation Area which, even though less than substantial, still attracts considerable importance and weight. In accordance with paragraph 202 of the Framework, the harm should be weighed against the public benefits of the proposal. The development would screen the existing lift shaft structure, which may be regarded as a public benefit. The appeal scheme would also make a contribution towards housing supply and choice in an accessible location, whilst supporting the local economy to some degree. Additionally, environmental and social benefits have been identified by the appellant. Overall, the public

benefits and any other benefits associated with the proposal would not however be sufficient to outweigh the less than substantial harm which would be caused to the Brunswick Town Conservation Area.

Conclusion

18. There are no material considerations, which indicate that the appeal should be determined, other than in accordance with the development plan. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR