



Appeal Decision

Site visit made on 3 August 2022

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 18 August 2022

Appeal Ref: APP/Q1445/W/22/3294940

Waggon & Horses, 109 Church Street, Brighton BN1 1UD

- 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 Phil Payne against the decision of Brighton & Hove City Council.
 - The application Ref: BH2021/04142 dated 22 November 2021, was refused by notice dated 24 January 2022.
 - The development proposed is removal of existing canopies and installation of new larger all weather retractable canopies to side and rear elevations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken into account that the Brighton & Hove City Plan Part 2 is now at a very advanced stage of preparation, although not yet adopted, and I have therefore given significant weight to its policies.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the character and appearance of the existing building, and of the North Laine Conservation Area, as well as the setting of the Valley Gardens Conservations Areas and the setting of nearby listed buildings.

Reasons

4. The appeal building is a public house on the corner of Church Street and Jubilee Street in a very vibrant area and historic area of Central Brighton comprising a wide mix of retail and commercial uses. The building has a relatively narrow frontage to Church Street and longer side return to Jubilee Street. It has existing external seating primarily to the side and rear on Jubilee Street and retractable fabric canopies to the side and to the rear which extend out from the building over part of the external seating areas. There are a number of other public houses, cafes and restaurants in close vicinity which have a range of external seating and canopy arrangements.
5. The proposal would replace the existing retractable canopies with larger retractable canopies extending over more of the external seating area supported by new posts of 2100mm in height. The plans indicate that the new

canopies would have built in lighting and heating. At the side it would appear that the canopies would extend as far as the line of the existing planters which appear to mark the extent of the pub's domain but would be less extensive at the rear.

6. The property lies within the North Laine Conservation Area and immediately adjacent the Valley Gardens Conservation Area which abuts in part the North Laine Conservation Area. The significance of the North Laine Conservation Area is the grid pattern of generally modest terraces dating from the Victorian period of retail, commercial and residential uses, albeit that there are some much more modern developments including along Jubilee Street. The Valley Gardens Conservation Area extends to the south and to the east of the North Laine Conservation Area,, including more open gardens and the landmark building of the Royal Pavilion including the Dome and Corn Exchange. The appeal property is not listed but there are a number of listed properties in the vicinity, including the Grade I listed Brighton Dome to the east on Church Street and Nos 23 and 24 New Road (also known as 2 Church Street), both listed Grade II, on the opposite corner of Church Street with New Road. Both of the New Road properties are described as terraced houses dating from the early nineteenth century, in the listing descriptions.
7. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) also requires me, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
8. The proposed scale of the canopies and the supports required would be significantly larger than existing when fully extended, especially over the main seating area to the side. Given the relatively narrow width of the pub building itself, I consider that the scale and form of the extended canopies would appear overly large and dominant in relation to the scale of the building. The canopies would also appear visually heavier and more intrusive compared with the existing, given their larger scale and the inclusion of uprights over 2m in height to support when fully extended. I therefore consider that the scale of the proposed canopies, and in particular the side canopy would detract from the proportions and appearance of the host property.
9. Given their siting on the junction of Church Street and Jubilee Street, they would also be visually intrusive in the street scene and in particular in views when approaching from the north, south and west of the site. The larger side canopy would be particularly over dominant in these views. When approaching from the east the canopies would be largely hidden by the existing buildings on the north side of Church Street.
10. I have taken into account the mix of newer development in the immediate local area and the variety of canopies already existing, but I consider that the scale and form of the proposed canopies, and in particularly the larger side canopy would detract from the character and appearance of the host building and would harm the significance of both the Conservation Area within which it is situated and the one it abuts, with particular reference to their historic form of

terraces. It would not therefore preserve the character and appearance of the North Laine Conservation Area or the setting of the Valley Gardens Conservation Area.

11. I also consider that given the close proximity as well as the scale and proportions of the proposed canopies and particularly the one to the side, they would appear visually dominant in relation to the two listed buildings at Nos 23 and 24 New Road. The proposal would detract from the setting of the two listed buildings on the corner of New Road, Nos 23 and 24. However, because of its relationship in terms of siting and distance and the intervening buildings I do not consider that the setting of the Grade I listed Brighton Dome would be adversely harmed; its setting would be preserved. However, my finding in this regard does not outweigh the harm I have already concluded.
12. This harm would conflict with Policies QD14, HE3 and HE6 of the Brighton & Hove Local Plan, Policy CP15 of City Plan Part 1, Policies DM21, DM26 and DM29 of the submission City Plan Part 2 and advice in the Council's SPD12: Design Guide for Extensions and Alterations, as well as the National Planning Policy Framework and in particular Section 16, all of which seek to protect and where possible enhance heritage assets.
13. Paragraph 202 of the Framework sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The Planning Practice Guidance sets out that public benefits could be anything that delivers economic, social or environmental objectives as described in paragraph 8 of the Framework. It also advises that they should flow from the proposed development and should be of a nature or scale to be of benefit to the public at large and not just a private benefit.
14. Given the nature of the proposals in relation to one building, the harm I have concluded would amount to less than substantial harm to the significance of the designated heritage assets of the Conservation Areas and listed buildings. I therefore now turn to consider the public benefits that have been promoted by the Appellant. I have taken into account the benefits to the customers and the staff from more extensive covered external seating and the economic benefits that this would bring to members of staff and to the local economy. These would in my view be public benefits. However, I am not persuaded that these outweigh the harm I have concluded from the specific proposals before me and that these specific proposals would be the only solution to secure the economic benefits.

Other Considerations

15. The Appellant has referred to a permission granted by the Council for a canopy with retractable roof and sides at the property directly opposite the appeal property, the Mash Tun PH. However, the Council has provided further information to set out that the larger canopy was granted permission for a temporary period during the Covid restrictions (Ref: BH2021/02076) but a more recent application to retain the structure for a further three years has been refused on grounds of heritage harm (Ref: BH2022/00780). Whilst I acknowledge that there are differences between that proposal and the proposal before me, it does not persuade me to a different view.

Conclusion

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

L J Evans

INSPECTOR