



Appeal Decision

Site visit made on 14 November 2022

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/Q1445/W/22/3292172

Hartley Court, 11 Howard Place, Brighton BN1 3BU

- 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 David Hartley of Hardwick Hartley Partnership against the decision of Brighton & Hove City Council.
 - The application Ref BH2021/02961, dated 10 August 2021, was refused by notice dated 22 October 2021.
 - The development proposed is an additional two stories with like for like materials on Hartley Court, for the inclusion of 3 apartments to nationally designed space standards.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Brighton and Hove City Plan Part 2 (CP2) was adopted on 20 October 2022. This supersedes the remaining 'saved' policies from the Brighton and Hove Local Plan 2005. Policies QD14, HE6 and HE3 of the latter document are no longer part of the development plan. The parties have had an opportunity to comment on the implications for the appeal. The Council has confirmed that the adoption of CP2 has not changed its position, and it has not identified any relevant policies in the new plan. My determination of the appeal is therefore made against those policies of the Brighton and Hove City Plan Part One (CP1) cited on the decision notice.

Main Issues

3. The main issues are whether the proposal would preserve or enhance the character or appearance of the West Hill Conservation Area and its effect on the setting of St Anne's House as a Grade II listed building.

Reasons

4. The site lies within the West Hill Conservation Area, a primarily residential district containing mid-Victorian development on a clifftop to the west of Brighton railway station. Howard Place marks the north-eastern boundary of the Conservation Area. This stretch of Howard Place, between Bath Street and Terminus Road, was originally the back gardens to the large Victorian houses on Buckingham Place. The gardens were developed in the late 20th century but the street retains its character as a service road, subservient to the principal frontage onto Buckingham Place.

5. Hartley Court is one of two modern apartment blocks on Howard Place. The building has a narrower façade than St Anne's Court adjacent, giving it a more vertical emphasis, but it is comparable in height and is constructed in matching brick. Both developments have four storeys, one of which is contained within a mansard roof. They are prominent buildings in views from the station car park and Stroudley Road, where they are visible against the backdrop of the larger, Grade II listed St Anne's House which is the dominant feature on the skyline.
6. The proposal is for an upward extension of Hartley Court by an additional two floors. The resultant six-storey building would be disproportionate in height to St Anne's Court and it would relate poorly to the street scene of Howard Place. Furthermore, the development would be unduly prominent in views into the Conservation Area – particularly from the railway station and on the public approach to Brighton by train – where it would compete visually with St Anne's House. Part of the historic significance of the Conservation Area lies in its relationship to the coming of the railway in 1841 and that significance would be harmed by a development which is out of scale with St Anne's House and other properties in Buckingham Place.
7. The appellant accepts that the development would have a dramatic impact on views from the railway and further north, but contends that this is a positive factor in the scheme's favour. Parallels are drawn with Brighton seafront where larger scale buildings are commonplace. However, Howard Place was never intended to be a principal frontage and even if it were, development on the scale proposed would not be appropriate as most of the buildings in this part of the Conservation Area are built at two or three storeys, sometimes over a raised basement. The proposal would be out of character in this context.
8. I am not persuaded by the argument that the development would improve the appearance of rear elevations on Buckingham Place. These may be secondary elevations, but they are not unattractive. The proposed architecture would reflect that of the host building, but it would not be of such high quality as to justify the additional height and prominence.
9. I conclude that the proposal would fail to preserve or enhance the character or appearance of the West Hill Conservation Area and its scale would cause harm to the setting of St Anne's House. There would be conflicts with CP1 Policies CP12 and CP15 insofar as these seek to raise the standard of architecture and design in the city and conserve and enhance its historic environment.

Planning Balance and Conclusion

10. The proposal would lead to less than substantial harm to the significance of the designated heritage assets affected. Paragraph 202 of the National Planning Policy Framework ('the Framework') states that in such circumstances the harm should be weighed against the public benefits. The proposal would deliver three additional apartments in a sustainable location, built to the Nationally Described Space Standard. It would make a modest contribution to the supply of new homes in a situation where the Council is unable to demonstrate a 5 year supply of deliverable housing sites, and the scheme would also provide a temporary boost to the economy during the construction phase. These can all be considered as public benefits.
11. Against the benefits I must weigh the harm to heritage assets. The Framework states that great weight should be given to the assets' conservation, irrespective

of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to significance. Any harm to the significance of a designated heritage asset should require clear and convincing justification.

12. In the heritage balance, I have given significant weight to the benefits of housing delivery and some, more limited, weight to the economic benefits. However, the adverse impacts on the West Hill Conservation Area and the setting of St Anne's House are matters of considerable importance and weight. Overall, I consider that the harm to heritage assets outweighs the benefits.
13. Paragraph 11 d) of the Framework indicates that, where the requisite housing land supply cannot be demonstrated, permission should be granted unless:
i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 7 states that policies in the Framework relating to designated heritage assets qualify as protection policies under the first limb of paragraph 11 d). Consequently, the tilted balance in the second limb does not apply and the proposal does not benefit from the presumption in favour of sustainable development within the Framework.
14. I therefore conclude that the proposal conflicts with the development plan taken as a whole and there are no material considerations of such strength or significance as to justify a decision otherwise than in accordance with the development plan. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR