



Appeal Decision

Site visit made on 18 April 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 June 2023

Appeal Ref: APP/Q1445/W/22/3302101

333 Kingsway, Hove, East Sussex BN3 4PD

- 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 B Kara (Breakfast at Tiffanys) against the decision of Brighton & Hove City Council.
 - The application Ref BH2022/00761, dated 25 February 2022, was refused by notice dated 17 May 2022.
 - The development proposed is mechanical covering to front terrace on metal framing.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Brighton & Hove City Council's City Plan Part Two was adopted in October 2022, while the appeal was under consideration. City Plan Part Two replaces retained policies of the Brighton & Hove Local Plan. Both main parties have commented on the implications of Policy DM21 of the newly adopted Local Plan, which was referred to in the reason for refusal. I have considered the appeal based on the adopted development plan.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site is a semi-detached property on a corner plot. It is of typical domestic design and scale, on two storeys with a fully hipped roof. There is a café on the ground floor with residential accommodation above. A single storey extension along the side of the building accommodates additional café seating and there is also an outdoor seating area on the main road frontage.
5. The site is one of several small business premises in similar semi-detached properties along one side of Kingsway. The street frontage otherwise comprises suburban housing interspersed with some larger residential and commercial buildings on three to four storeys. Opposite the site is an industrial estate, comprising single storey sheds set at a lower ground level, enabling views over their roofs towards the sea front.
6. Although the buildings along this side of Kingsway are varied in style and scale, they are set at a similar distance back from the road, forming a fairly consistent building line. Front boundary treatment is typically at a low level,

maintaining a sense of openness in front of the buildings. The frontage of the appeal site is enclosed by solid timber panels at a low level, topped with glazed screens. This clearly defines the extent of the outdoor seating area, without being excessively intrusive.

7. The proposal would significantly increase the extent and scale of built structures in front of the building. While the proposed metal frame would be a relatively slim structure, it would be taller and more prominent than the existing boundary enclosure. The retractable PVC sheeting would cover an extensive area, using a light coloured (and thereby eye-catching) material which is not found on the existing buildings.
8. The proposed structure would occupy a substantial area, in a highly prominent position on a street corner. Its open sides would not prevent the seating area looking enclosed, given the very extensive expanse of roof covering. The structure would dominate the frontage of the site and would look out of proportion with both the existing building and its similar neighbours.
9. While the appellant intends that the roof covering would be used only in bad weather, this could not realistically be enforced. Therefore, any condition imposing this requirement would be inconsistent with the six tests for use of planning conditions, as set out in paragraph 56 of the National Planning Policy Framework (the Framework).
10. As a result of its very shallow slope, the retractable roof would not successfully harmonise with the steeper and more traditional proportions of the pitched roof on the original building. It would also have a somewhat awkward relationship with the sloping roof of the adjacent side extension. The design would therefore not complement the existing building in terms of its scale, proportions or materials. It would be an unsympathetic addition in a highly prominent location, which would detract from the character of the existing building and therefore be harmful to the surrounding street scene.
11. While the adjacent flats are significantly taller than the building on the appeal site, they have a coherent design which respects the established building line. Furthermore, the varied nature of existing buildings fronting Kingsway does not justify introduction of alterations or extensions which fail to harmonise with their host building or its surroundings.
12. For the above reasons, I conclude that the proposed development would be harmful to the character and appearance of the area. It would conflict with Policy DM21 of the City Plan Part Two, which applies to extensions and alterations to existing buildings, including those used as restaurants or cafés. This policy requires amongst other things that extensions are well designed, scaled, sited and detailed in relation to the existing building, take account of the existing character of the area and use materials that complement the parent building.

Other Matters

13. I recognise that the proposal would enable use of the outdoor seating area in all weathers, in a location which is readily accessible to the local community and passing traffic. The retractable roof would support year-round occupation, helping to maintain the café's contribution to the local economy and the range of social facilities for the local community.

14. However, the indoor seating area is already quite extensive and no substantive evidence has been provided that the viability of the business is dependent on availability of outdoor seating in all weathers. Although the café is near the sea front, it is not directly accessible from the beach and caters for local residents as well as day visitors. Since outdoor seating is already available, the scale of any additional benefit to the City's tourist economy from its extended operation would be inherently limited. As such, any economic or social benefits would not outweigh the harm to the character and appearance of the area, as set out above.
15. The benefits in terms of more effective use of the land would also be very limited, since the outdoor seating area is already in place. Furthermore, the support in the Framework for more effective use of land is not at the expense of ensuring that all development is well designed.
16. Given the retractable, open sided design and lightweight proposed roofing materials, there is no clear evidence that the proposal would materially reduce noise levels. The absence of identified harm in relation to traffic, the effect on neighbours' amenities or community safety is a neutral factor which does not weigh for or against the proposal.
17. Consequently, while I have had regard to other matters raised, including the potential benefits identified above, these matters do not outweigh the clear harm that would result from the proposal, as set out in the foregoing main issues.

Conclusion

18. For the reasons given above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR