



Appeal Decision

Site visit made on 15 June 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2023

Appeal Ref: APP/Q1445/W/22/3310966

27 Duke Street, Brighton & Hove, Brighton BN1 1AG

- 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 Andra Jewels Limited against the decision of Brighton & Hove City Council.
 - The application Ref BH2022/01869, dated 8 June 2022, was refused by notice dated 19 August 2022.
 - The development proposed is "application to fit external roller grilles".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The roller grilles have been installed and therefore I am considering this appeal retrospectively.
3. Following the refusal of the application the Brighton & Hove City Plan Part Two (CPP2) was adopted on 20 October 2022. The parties have had the opportunity to comment on the updated policy position and these comments have been taken into account, where received.
4. Despite the reference in the Council's reason for refusal, it is clear from the Officer Report and its appeal statement that the Council is referring to Policies CP12 and CP15 of the Brighton & Hove City Plan Part One 2016 (CPP1). Having regard to the clear references to CPP1 in the Council's submissions, I consider that no one would be prejudiced by determining the appeal on this basis.

Main Issues

5. The main issues are the effect of the development on:
 - the character and appearance of the host building and the local area, bearing in mind the extent to which it preserves or enhances the character and appearance of the Old Town Conservation Area (OTCA); and,
 - the setting of the Grade II listed building, numbers 12 and 13 Duke Street (Nos 12 and 13).

Reasons

Character and appearance

6. The appeal site is located on Duke Street within the OTCA. The special interest and significance of the OTCA are largely derived from its historical

development from a fishing settlement and centre for an agricultural hinterland that grew into a municipality and a fashionable holiday resort in the late 18th and early 19th centuries.

7. The significance of the OTCA, insofar as it relates to this appeal, includes the historic shop fronts that are found on Duke Street, many of which retain original features. The collection of historic shop fronts, the prominence of architectural detailing and how they are experienced, provides a positive contribution to the area. These elements reinforce the local character, appearance and distinctiveness of the area and, insofar as it relates to this appeal, contribute strongly to the significance of the OTCA.
8. The Council's Shop Front Design Supplementary Planning Document (2005) (SPD) says all original architectural features of the shop front should be retained and must not be concealed or obscured. In conservation areas, the SPD expects box housings to be concealed behind the fascia.
9. The Old Town Conservation Area Management Plan (October 2018) (MP) highlights that a number of part-open chain shutters can be seen protecting jewellery shops, but that these still tend to have a deadening impact on the street scene. The MP gives preference to laminated glass or, where grilles are required, internal grilles, demountable grills and scissor expanding metal grilles. The MP advises that open roller grilles may be acceptable where the box housing is concealed.
10. During the time of my site visit I observed that the roller grilles were in its descended position. The box housing for the grilles is bulky and has a substantial projection, obscuring and sticking out further than the corbel brackets and cornice. Furthermore, the guide rails protrude forward of the pilasters. This causes the development to appear as an over-dominant and disproportionate addition to the shop front.
11. Even accounting for the perforation of the grilles, the overall composition of the roller grilles reads as a predominantly solid structure. This is particularly the case when viewed from an angle. When in its descended position, the shutter presents a harsh and unattractive elevation at street level. The white finish of the installation does not overcome the harm caused to the appearance of the building as a result of the enclosing effect, bulk and dominance of the development, which also obscures the shop fronts ornate features.
12. For the above reasons, the development detracts from the character and appearance of the host building and the local area. It also fails to preserve both the character and appearance of the OTCA, thereby causing harm to its significance. Consequently, it fails to respect the detailing of the building and interrupts and obscures architectural details contrary to the requirements of Policy DM23 of the CPP2.
13. In reaching this view I have taken into account that there are other shop fronts on Duke Street which have external roller shutters and grilles. At the time of my visit some of the shutters remained closed, this confirmed that the shutters are generally an unattractive feature which result in a bland, sterile appearance to the commercial frontage and do not positively contribute to the significance of the OTCA. The appeal proposal consolidates the effect of the inactive frontage and exacerbates the harm identified. Moreover, the Council has advised that these have not been granted planning permission. In light of the

harm I have outlined above, the existence of other examples is not justification in itself for the grant of planning permission.

Setting of listed building

14. Nos 12 and 13 are mid terraced buildings. The significance and special interest of the buildings as a designated heritage asset is drawn, in part, from their historical and architectural interest, age, relevance to the history of Brighton, their ornate architectural features and its traditional construction materials.
15. It is not disputed that the appeal site is within the setting of the listed buildings. The setting of a heritage asset, which can contribute to its significance, is defined in the glossary to the National Planning Policy Framework (the Framework) as the surroundings in which a heritage asset is experienced. The appeal site lies within the proximate surroundings in which Nos 12 and 13 are experienced. The setting of these listed buildings is part of the streetscape, and so the general features of the conservation area, including the strong presence of traditional shop fronts, also contribute to the setting of the listed buildings. As such, the shop front of the appeal site contributes to the setting of the listed buildings and contributes to their special interest.
16. The presence of roller shutters and grilles on Nos 12 and 13 do not lessen the harm caused by the appeal scheme. Moreover, the Council has advised that these roller shutters and grilles do not benefit from permission.
17. Consequently, the development erodes the setting of the listed buildings thereby causing harm to their special interest. The development thus conflicts with Policies CP12 and CP15 of the CPP1 and Policies DM18, DM23, DM26 and DM29 of the CPP2. Together these policies, amongst other things, require development to conserve or enhance the city's built heritage and demonstrate a high standard of design.

Public benefits

18. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 emphasises that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification.
19. Given the limited scale of the proposal, I find the harm, in the words of the Framework, to be less than substantial but nevertheless of considerable importance and weight. Under such circumstances, Paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal. Policies DM26 and DM29 of the CPP2 also expect proposals to meet the requirements of the Framework in these circumstances.
20. The appellant has carried out improvements to the shop, including repairing and repainting the corbel brackets and cornice, as well as painting the shop front and retaining the awning, albeit behind the box housing. However, these works do not justify the harms caused by the roller grilles.
21. The roller grilles have the potential to improve security of the unit when it is closed to the public. The appellant indicates that the use of removable or demountable grilles could not be accommodated, and I appreciate that the

appellant has taken advice from the Police. I also acknowledge the comments of the landlord and the high value nature of the stock sold in the shop. However, I have been given little compelling evidence that demonstrates there are no other, less harmful, means of securing the property, or substantive evidence that security has been an issue at the appeal site. Moreover, whilst these matters are important given the use of the premises, as benefits accruing from the proposal they are mainly of a private nature to the owner or occupier and not of a nature or scale to be of benefit to the public at large¹.

22. Consequently, any tangible public benefits are modest. In attributing considerable importance and weight to the identified harms to the designated heritage assets, I find that there are no substantiated public benefits arising from the proposal which outweigh that harm. Additionally, no clear and convincing justification for the identified harm has been provided.

Other Matters

23. I note the appellant's comments regarding the Council's handling of the planning application. Whilst noting the frustrations these are not matters relevant to the determination of this appeal and this has not affected my findings on the planning merits of the scheme.
24. The appellant asks for a solution as to what alternative scheme should be implemented. The appeal process should not be used to evolve a scheme and it is not for me in the context of an appeal under section 78 of the Town and Country Planning Act to suggest any alternatives.

Planning Balance and Conclusion

25. Taking the above matters into consideration, the proposal fails to preserve the character and appearance of the OTCA. It also harms the setting of the Grade II listed buildings, Nos 12 and 13. This fails to meet the requirements of Sections 72(1) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the provisions within the Framework which seek to conserve and enhance the historic environment.
26. The development thus conflicts with Policies CP12 and CP15 of the CPP1 and Policies DM18, DM23, DM26 and DM29 of the CPP2. Together these policies, amongst other things, require development to conserve or enhance the city's built heritage and demonstrate a high standard of design.
27. The development conflicts with the development plan when considered as a whole. There are no other considerations identified, either individually or in combination, including the Framework, that outweighs the identified harms and associated development plan conflict.
28. For the reasons given above I conclude that the appeal should be dismissed.

J White

INSPECTOR

¹ Planning Practice Guidance, Historic Environment, What is meant by the term public benefits- Paragraph: 020 Reference ID: 18a-020-20190723