



Appeal Decision

Site visit made on 9 August 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2023

Appeal Ref: APP/Q1445/W/23/3317533

47 Church Street, Brighton and Hove, Brighton, BN1 3LJ

- 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 Dr Gail Hopkins against the decision of Brighton and Hove City Council.
 - The application Ref BH2022/02645 dated 18 August 2022, was refused by notice dated 14 December 2022.
 - The development proposed is replacement of single glazed wooden sash windows with double glazed uPVC windows for lower maisonette and replacement of single glazed metal windows and wooden window with double glazed uPVC windows for upper maisonette.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.

Main Issue

3. The main issue is the impact of the proposal upon the host building, street scene, wider Montpelier and Clifton Hill Conservation Area and adjacent listed building.

Reasons

4. There are several elements to the appeal proposal. The appeal site is a two storey, semi-detached dwelling located on the top of Church Street, which stands within the Montpelier and Clifton Hill Conservation Area (CA). The appeal property is, itself, not listed however, it is attached to 2 Mount Zion Place, which is Grade II Listed. I also note that the appeal site is immediately opposite St Nicholas' Church, which is also a Listed Building according to the plan within the Council's statement of case. The location is, therefore, prominent within the vicinity of these Listed Buildings and at the time of my site visit, I found that the area was heavily used by pedestrians passing the appeal site. Section 72 of the Planning (Listed Buildings in Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving and enhancing the character and appearance of the CA.
5. The proposal seeks permission to replace the existing single glazed wooden sash windows with double glazed UPVC windows for the lower maisonette and replace the existing single glazed metal windows and timber window with

double glazed UPVC windows for the upper maisonette. At the time of my site visit I noted that there are examples, along Church Street, of properties whose windows have already been changed to UPVC. The appellant has submitted photographs of these properties (houses 46 to 52 Church Street). Whilst, evidently, I was specifically looking at the window materials as part of my site visit, I find that such materials are not hard to spot within the context of the CA street scene due to their nature.

6. Based upon the evidence before me, it would appear that most other UPVC windows are either without planning permission or are on properties, within the CA, that are outside of the Article 4 Direction which specifically prohibits the replacement of windows to the front of properties under householder permitted development rights. For the properties which are outside of the Article 4 Direction, if relating to a single dwelling house, permission may not have been required to change the windows in such cases. I do not find that this suggests that the Council find altering the street scene is acceptable in such cases. It is, I find, more a statement of the fact that such alterations are beyond the control of the Council, which contributes to an explanation as to the presence of UPVC within this part of the CA.
7. The appeal site is not a single dwelling house and, as such, does not benefit from such permitted development rights which means that planning permission is required. As part of the consideration of such proposals special regard must be had for the site's location within both a CA as well as, in this case, being attached to (and opposite) a listed building. The ability of properties within the vicinity to alter windows without a requirement for planning consent does not, I find, support that UPVC is acceptable within this location. I find that it supports that the cumulative impact of such alterations should be taken into careful consideration to prevent further erosion of historic fabric.
8. Windows are important elements of historic street scenes and, in this case, whilst the proposal seeks to retain a similar window style (sash windows) the key change is the proposal being for UPVC material. UPVC is a non-traditional material and I find that it would ultimately change the proportions of the windows, which would have a negative impact on the host property within the CA. This would, in this case, also be exacerbated by the appeal site being immediately adjoined to a Grade II Listed Building as well as being immediately opposite the entrance to a Grade II Listed Church. The appeal site is within the setting of these listed buildings.
9. It is acknowledged that the appeal site is not a Listed Building, however, upon walking up Church Street, both the appeal site and 2 Mount Zion Place are properties that are viewed together despite the angle at which they are related. At the entrance to Mount Zion Place, the full front elevation of the adjoining listed building is visible and, when walking in that direction the property, that would be immediately seen after the listed building, is that of the appeal site. I find that they are closely linked in visual terms, which is a contrast to, for example, the row of houses to the east (which have been previously raised due to presence of UPVC). I find that the latter are visually separated as a result of the no through road off Mount Zion Place, falling site levels down Church Road as well as the presence of trees on the front boundary on Mount Zion Place.
10. I acknowledge that it is stated that the proposal would regularise window styles and bring it in line with others in the same road, however, in the absence of

further information such as a design and access statement or heritage statement, I can attribute limited weight to this point. Had the proposal been supported by a commentary as to the evolution of the site, and its current windows, I would have stronger evidence and understanding as to whether the regularisation of the windows in question would be a benefit to the CA.

11. I acknowledge, from my site inspection and the photos provided, that the existing windows are in need of attention. Despite this, I have no evidence before me to suggest that the existing timber, and metal, frames could not be repaired and re-painted. In addition, I also have no evidence, with regard to improving insulation or heat loss, that UPVC windows are the only option to achieve such energy saving measures with other options often being available for this specific purpose. I acknowledge that there are opportunities within the Brighton and Hove area to recycle and/or salvage timber, metal, and glass, and that the appellant may well take advantage of those opportunities if the appeal was allowed. Despite this the National Planning Policy Framework 2021 (the Framework) is clear in the balancing exercise of less than substantial harm against public benefits and, in this case, whilst I acknowledge current national objectives to conserve power and improve housing conditions, I do not have sufficient evidence before me to demonstrate that such benefits could not be achieved through alternative means with UPVC being a last resort.
12. Overall, I find that the proposed UPVC windows would be detrimental to the character and appearance of the property and wider street scape as well as providing inappropriate contrast to adjacent listed buildings. I find that the harm identified would be less than substantial harm, however, in accordance with paragraph 202 of the Framework where a proposal leads 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 including (where appropriate) securing its optimum viable use. The proposal, as submitted, would result in some thermal insulation benefits to the residents of both the upper and lower maisonettes in question, but these are private benefits and I have no evidence before me to suggest that there are public benefits which would, in this case, outweigh the great weight which should be attributed to the less than substantial harm that I have identified.
13. The proposal would be contrary to Brighton and Hove City Plan Part 1 2016 (LP1) Policy CP12 which seeks to raise the standard of architecture and design in the city and conserve or enhance the City's built heritage and its settings and LP1 Policy CP15, which confirms that the City's historic environment will be conserved and enhanced and that where proposals are promoted for their contribution to mitigating climate change, the public benefit of this would be weighed against any harm which may be caused to the significance of the heritage asset or its setting.
14. The proposal would also be contrary to City Plan Part 2 2022 (LP2), Policy DM21 which requires that alterations use materials that complement the parent building, LP2 Policy DM26, which confirms that development proposals within the CA, including alterations, will have regard to the use of building materials and finishes that respect the area and LP2 Policy DM29, which confirms that development within the setting of a heritage asset will only be permitted where its impact would not harm the contribution that setting makes to the assets significance by virtue of matters such as design and materials.

Other Matters

15. I note that there is an objection to the proposal which raises impacts upon the CA, material, and design. Given the main issues before me within this appeal I have responded to such matters within the main body of this decision letter. A lack of design and access statement is noted to have been raised, however, I have considered the proposal based upon the evidence which is before me.

Conclusion

16. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR