

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: 5th September 2023

Appeal Ref: APP/Q1445/W/23/3316899

4 and 6 Eaton Grove, Brighton & Hove, Hove, BN3 3PH

- 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 J L Faynum Limited against the decision of Brighton and Hove City Council.
 - The application Ref BH2022/03300 dated 20 October 2022, was refused by notice dated 23 December 2022.
 - The development proposed is conversion of 2no., two-storey mews properties currently used as offices and workshop (Class E) on the ground floors and residential flats on the first floors (C3) to 1xno. 3-bed residential dwelling and 1xno. 4-bed dwelling, with accommodation in the roof space. Erection of rear dormers and addition of front rooflights.
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Decision

1. The appeal is allowed, and planning permission is granted for conversion of 2no., two-storey mews properties currently used as offices and workshop (Class E) on the ground floors and residential flats on the first floors (C3) to 1xno. 3-bed residential dwelling and 1xno. 4-bed dwelling, with accommodation in the roof space. Erection of rear dormers and addition of front rooflights at 4 and 6 Eaton Grove, Brighton & Hove, Hove, BN3 3PH in accordance with the terms of the application ref BH2022/03300 dated 20 October 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission;
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 7199/001, 7199/020 B, 7199/021 B, 7199/022 B, 7199/023 C and 7199/024 B;
 - 3) The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building;
 - 4) The rooflights hereby approved shall have steel or cast metal frames colour finished black or dark grey, fitted flush with the adjoining roof surface and shall not project above the plane of the roof;
 - 5) The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times;

- 6) If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme;
- 7) The development hereby approved should achieve a minimum Energy Performance Certificate (EPC) rating 'C';
- 8) The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

Procedural Matters

2. The application form states that the site location is 4 Eaton Grove, however, it is evident that the proposal relates to 4 and 6 Eaton Grove. For the avoidance of doubt, and as the decision notice does, I have utilised both property numbers within the header of this decision letter.

Main Issue

3. The main issue is the impact of the proposal upon the character and appearance of the host buildings and the Willett Estate Conservation Area.

Reasons

4. The appeal site is a pair of historic mews properties located on Eaton Grove, which stand within the Willett Estate Conservation Area (CA). I note, from the submissions before me, that planning permission (BH2021/03577 and BH2020/02227) has been granted for the separate conversion of the two buildings into two three-bedroom dwelling houses (C3) including external alterations. The proposal before me seeks to convert the pair of buildings into one three-bedroom dwelling and one four-bedroom dwelling as well as including differing external alterations and the addition of front and rear dormers and rooflights.
5. Section 72 of the Planning (Listed Buildings in Conservation Areas) Act requires that special attention shall be paid to the desirability of preserving and enhancing the character and appearance of the CA. The refusal reason is specific in that it is based upon the proposed external alterations and insertion of dormers, and I note that the Council have no objection in principle to the proposed change of use on the basis that the previously approved permissions remain extant and able to be implemented. I have no evidence before me to conclude differently on this element and also note that no objection has been raised on the basis of amenity, standard of accommodation, sustainable transport, or any other matters. As a result of this, the appeal will seek to focus upon the proposed external alterations and dormers as outlined within the stated reason for refusal.

6. The proposed external alterations across both buildings would amount to nine dormers (four front and five rear), four rooflights (two front and two rear) and changes to the central window at the front of no. 6 as well as changes to the first-floor central loading bay at the front of no. 4. During the application period, the proposed revised first floor central fenestration has been amended to remove the originally submitted Juliet balconies and insert solid elements within the openings. The application was determined on these revised plans and subject to updated consultee comments following the revisions.
7. At the time of my site visit, I parked on The Drive and walked around, down, and into Eaton Grove. I noted that on the northern terrace in Eaton Grove, two properties have dormers, however, on the opposite side of Eaton Grove, to the south, there are a larger volume of dormer windows present. I note that the Council contend that there is limited/no planning history for the presence of these non-original features, however, I have no evidence before me to confirm, for example, that such features could be subject to enforcement action or that the Council are indeed considering such action which could result in their removal or alteration, which could then change the basis for my assessment. Overall, when taking Eaton Grove as a whole I find that dormer windows are not an uncharacteristic feature in the vicinity of the appeal site. I found, during my site visit, that general views of the roofscape when stood within the streetscene itself are more restricted due to a combination of building height and the narrow width of the road but that those dormers already present are visible due to projection forward of the existing roof slope.
8. There would be some limited views of the front roofscapes within Eaton Grove when stood on The Drive immediately outside the Conservatory Furniture Shop to the east, but I find that views from this point are naturally broken up and partly obscured within wider views from The Drive as a result of the archway at the entrance to the mews. Any limited views from this direction, would be within the context of Eaton Grove as a whole where, as previously stated, I find that dormers are characteristic. At the time of my site visit I also walked up The Drive and note that views of the rear elevation of the appeal site are essentially non-existent within public realm due to the presence of trees, boundary fencing and the bowling club to the rear. There is then a further row of trees, further parking facilities for the Royal Mail Delivery Office and then a railway line before the nearest road and dwellings to the North.
9. Whilst the roofs of the appeal site do appear to retain their original slate finish, and the front slopes are intact and without vents or hatches as a result of generally limited views, I find that the impact of the proposed dormers upon the appearance of the CA would be limited. Based upon this, and my site visit, there cannot be said to be a view of the rear of the property in the public realm which controls any impact of the proposal in terms of appearance.
10. Whilst I acknowledge that Oxford Mews is not accessible from Eaton Grove, I do not find that they are of very distinct and separate characters. At the time of my site visit I noted the barrier between Eaton Grove and Oxford Mews, and I acknowledge that the boundary of the CA did not extend to include Oxford Mews. I find that both Eaton Grove and Oxford Mews do share similar characteristics and I note that there are specific reasons that Oxford Mews was excluded from the CA as outlined within the appellant's submissions. Whilst I acknowledge the later construction of Oxford Mews, in the limited viewpoints that are available from, for example, The Drive or private views from Denmark

Villas, the dormers on the properties in Oxford Mews are visible and appear as a continuation of the straight road and building line which presents as a continuation of Eaton Grove. There is a clear line of view straight down both Eaton Grove and Oxford Mews and I find there is a relationship between them. I note that the appellant, and Council, have both provided calculations as to the percentage of properties which benefit from dormer windows but regardless of the specifics of these figures, I find that dormers are characteristic within both Oxford Mews and Eaton Grove, and I do not find that they can reasonably be considered separately for the reasons I have outlined above.

11. Removal of the Juliet balcony railings, addition of a solid sill and solid panel to the lower portion of the openings on both properties is, I find, an improvement to the originally submitted proposal and the window heights are consistent with the existing windows within the front elevation. Whilst I acknowledge the changes to the first-floor loading bay are of concern to the Council, the introduction of a solid panel to the lower portion of the openings, on both properties, I find overcomes previous concerns regarding uncharacteristic, elongated proportions as a result of the original proposal for Juliet balconies. I note a preference for a traditional boarded panel in the lower section of the opening, however, I find that the boarding proposed is more appropriate as well as allowing the window height to match that of the windows either side in this case. I note that the Council consider the result does not reflect the proportions of solid to void for the design and details of the surviving first floor loading door, however, in the case of number 6, the amendments utilise the existing opening of the loading door, which is appropriate taking into the account the scheme as a whole.
12. Whilst the Council's delegated report does not, itself, quantify the harm, I note that the consultee's response quantifies the level of harm as less than substantial under the terms of the National Planning Policy Framework 2021. Preserving can be taken as doing no harm and, in this case, for the reasons I have outlined I find that the proposal would have a neutral impact upon both the character and appearance of the CA as well as the character and appearance of the host buildings themselves. I find that the overall visibility of the scheme would be limited, as outlined, and that any views would be considered alongside both Oxford Mews, and the southern side of Eaton Grove, where I find that existing dormers are part of the character of the area.
13. Overall, I do not find that the proposed alterations to the fenestration or the proposed front and rear dormers would undermine the heritage value of the mews groups of buildings and find that the proposals are appropriately scaled and detailed for the historic building. Whilst the extant permissions are acknowledged to support the principle of the residential conversion, I do not find that it falls to consider public benefits as a comparison to these extant schemes. The proposal should be considered on its own merits, as a new proposal and as submitted. The proposal would support the development of an under-utilised building and provide a high standard of accommodation. The dormer windows would enhance the second-floor accommodation and the loading bay doors are, I find, key features in the evolution of the mews which are characteristic of the area and are well retained as part of the proposal. The proposal, as submitted, would not harm the CA's special qualities as a result of neutral impact.

14. The refusal reason references Supplementary Planning Document 12 (Design Guide for Extensions and Alterations) 2013 (SPD), however, none of the officer reports or statements evidence analysis of the proposal against the SPD in question. Despite this I do note that the consultee's response highlights specific wording within SPD12. I note the SPD advises that original form, shape and fabric of the main roof must not be altered and its ridge height must not be raised, however, I find that this alludes to changes to the entire roof as if applied as read literally, it would mean that no alterations to a roof could be allowed and this would then be contrary to the third bullet point, on page 24, which goes on to state that roof extensions, including dormers, must respect the particular architectural character of the building and be carefully related to it.
15. In this case original form, shape and fabric of the main roof would be retained and the ridge height would not be raised, and this original form would be retained with the addition of the proposed dormers. The proposal would, I find, be consistent with the overarching guidance contained on dormer windows within the SPD with specific reference to conservation areas. The proposed dormers would be well positioned at the sides, ridge and eaves of the roof and they would be as small as possible with a width which is consistent with the windows below.
16. The proposal would be consistent with Brighton and Hove City Plan Part 1 2016 (LP) Policy CP12 which requires all new development to conserve or enhance the City's built heritage and its setting, and LP1 Policy CP15 which seeks to conserve and enhance the City's historic environment. The proposal would also be consistent with Brighton and Hove City Plan Part 2022 (LP2) Policy DM18, which requires development proposals to consider local context, building materials and architectural detailing and demonstrate a high standard of design, LP2 Policy DM21, which requires that proposals for extensions and alterations to existing buildings must take account of the existing character of the area and use materials that complement the parent building and LP2 Policy DM26, which confirms alterations and change of use will be permitted where they preserve or enhance the distinctive character and appearance of the CA.

Other Matters

17. I note comments from an interested party in relation to this appeal. The proposal is for conversion to two, use class C3, residential units and that is the basis upon which the appeal must be determined notwithstanding the fact the principle of this conversion has already been secured via a previous permission. The proposal is not for a House of Multiple Occupation (HMO), and I understand there is an Article 4 Direction in place, preventing such changes as permitted development, meaning that proposals of this nature would be subject to future planning control and would be considered on their own merits at that stage. The Council's refusal reason references Supplementary Planning Document 09, however, no copy of this document has been submitted as part of this appeal.

Conditions

18. As part of their submission the Council have suggested a number of conditions. The appellant has confirmed their acceptance of these conditions within their final comments. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required to control

and define the development which is granted consent. Conditions relating to materials, and a condition regarding the rooflights, are required to ensure the proposal matches the host buildings and that any deviations in materials from existing are approved by the Council to ensure an appropriate finish.

19. A condition relating to cycle storage is required to allow and encourage more sustainable travel choices for future occupiers and a condition relating to refuse storage is required to ensure satisfactory facilities. A condition relating to any potential contamination is required to safeguard the health of future residents or occupiers and a condition relating to energy efficiency is required to improve and reduce energy cost and usage.

Conclusion

20. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR