



Appeal Decision

Site visit made on 4 January 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th January 2024

Appeal Ref: APP/Q1445/W/23/3321680

41A George Street, Brighton BN2 1RJ

- 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 P Beck against the decision of Brighton & Hove City Council.
 - The application Ref BH2022/00733, dated 1 March 2023, was refused by notice dated 10 November 2022.
 - The development proposed is a change of use from office and garage to a two bedroom flat.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) whether the proposed development would preserve or enhance the character or appearance of the East Cliff Conservation Area; (ii) the principle of development, with regards to the loss of an employment site; and (iii) the effect of the proposed development on the living conditions of future occupiers, with particular regard to outlook, daylight, ventilation and privacy.

Reasons

Conservation Area

3. No. 41A George Street is located within the East Cliff Conservation Area. From the evidence before me, and from what I saw when I visited the site, the significance of the Conservation Area, in so far as it is relevant to this appeal, is derived from the value of the development of this part of Brighton City Centre, and the architectural styles and tastes of the time. It has an aesthetic value due to the appearance and layout of the buildings that comprise the Conservation Area. The building that is the subject of this appeal comprises an office at ground floor level, with residential accommodation above. Its general appearance and condition mean that it does not contribute positively to the Conservation Area.
4. In this instance, the proposed development would involve the conversion of the ground floor office space to form a residential dwelling. To facilitate this, an existing garage door would be replaced with a large window that would serve the primary bedroom of the proposed flat. The approved plans show that the existing lintel above the garage door would be retained. This means that the new window would be set at a slightly lower height than the existing window in the front elevation. This would give the ground floor of the building a very

strange lopsided appearance which would be visually unattractive and would appear out of keeping with the design of other buildings nearby which all have an element of consistency in terms of window heights. In my view, this would cause greater harm to the Conservation Area than the current appearance of the building.

5. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this instance, due to the limited scale of the development, the harm would be relatively localised. Nevertheless, the proposal would have a negative effect on the significance of a designated heritage asset and would result in 'less than substantial harm'. In these circumstances, the National Planning Policy Framework (the Framework) requires that this harm must be weighed against public benefits. Great weight must be given to a designated heritage asset's conservation and any harm to its significance requires clear and convincing justification.
6. In this instance, the proposal would add one additional dwelling to the existing housing stock which would also provide some economic benefits to the local area. However, given the minor nature of the development, these benefits attract very limited weight in my consideration of the appeal.
7. I therefore conclude that the public benefits do not outweigh the less than substantial harm I have identified. The proposed development would fail to preserve or enhance the character or appearance of the Conservation Area and would result in harm to its significance. This would fail to satisfy the requirements of the Act, paragraph 208 of the Framework, and would conflict with Policy DM26 of the Brighton & Hove City Plan Part Two, 2022 (LP2) and Policy CP15 of the Brighton & Hove City Plan Part One, 2016 (LP1). Taken together, the relevant aspects of these policies seek to preserve the significance of designated heritage assets, including Conservation Areas.

Loss of an Employment Site

8. LP1 Policy CP3 sets out that the loss of sites in employment use, or those whose last use was employment related, will only be permitted where it has been demonstrated that they are incapable of meeting the needs of alternative employment uses. Paragraph 4.39 of the supporting text states that this should be evidenced through a period of marketing.
9. In this instance, there is no evidence before me to suggest that the premises has been marketed for employment uses. While working patterns have changed over recent years, this does not mean that there would be no demand for the premises as an employment space. Indeed, without the necessary evidence, I cannot be certain that there would be no interest in keeping the site as an office, or another form of employment, and I therefore cannot conclude that the site is not viable for continued employment use.
10. As a result, I conclude that the proposal conflicts with the requirements of Policy CP3 which seeks to retain employment uses, subject to various criteria.

Living Conditions

11. The proposed flat would be served by two large windows on the front elevation and a new smaller window on the rear elevation within the second bedroom.

While the flat would be fairly narrow, it would have significant depth. This means that the kitchen and dining area would be located some distance from the front facing window. As a result, it is highly likely that these areas of the flat would be very gloomy and therefore reliant on artificial light. Furthermore, even if an extractor fan was fitted, the lack of a window in the kitchen area would mean that kitchen smells and smoke would linger for quite some time which would be unpleasant for future occupiers.

12. The proposed rear facing window in the second bedroom would look out into a public park. I accept that living room spaces often front onto a road. However, in my view, the level of privacy expected in a bedroom is far greater, and without obscured glazing, this would not be achieved. On the other hand, if obscured glazing was fitted, it would mean that there would be very little or no outlook from the bedroom, which would also result in clear harm.
13. Taking all of this into consideration, I conclude that the proposed development would harm the living conditions of future occupiers. It is therefore in conflict with LP1 Policy CP8 and LP2 Policies DM1 and DM20. Taken together, the relevant aspects of these policies seek to ensure that the layout and quality of development is sufficient to ensure that occupiers have adequate living conditions. I do not find conflict with LP2 Policy DM44 as it relates to carbon emissions.

Other Matters

14. The appellant has set out that the existing office could be converted to residential space by utilising permitted development rights. However, I have no substantive evidence before me to confirm whether or not the building meets all of the requirements of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Indeed, I note that the Council has recently refused a prior approval application on the basis of inadequate levels of natural light. I therefore afford very limited weight to this fallback position.

Conclusion

15. The proposed development conflicts with the development plan when considered as a whole. The Council cannot currently demonstrate a 5-year supply and the current shortfall is significant. I have no evidence before me to suggest that this position is likely to improve in the short-term.
16. However, the tilted balance is not invoked because the Framework at Paragraph 11d(i) and footnote 7 protects both areas and assets of particular importance, which include designated heritage assets, and this provides a clear reason to dismiss the appeal.
17. As such, the proposed development conflicts with the development plan when considered as a whole. There are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. The appeal is therefore dismissed.

C Butcher

INSPECTOR