



Appeal Decision

Site visit made on 8 April 2024

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19.04.2024

Appeal Ref: APP/Q1445/D/24/3337827 29 West Drive, Brighton, BN2 0QU

- 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 Mike Rosenberg against the decision of Brighton and Hove City Council.
 - The application Ref BH2023/02100, dated 25 July 2023, was refused by notice dated 8 November 2023.
 - The development proposed was described as '*Change to driveway layout to the front of the property*'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the Queen's Park Conservation Area and the settings of the nearby grade II listed Registered Park and Garden at Queen's Park and the grade II listed building at Pennant Lodge.

Reasons

3. The appeal property is a two-storey, detached dwelling set behind a garden frontage enclosed with a low white rendered wall adjacent to the back edge of the footpath. West Drive runs along the western boundary of Queen's Park, a grade II listed Registered Park and Garden, and is part of a wider residential neighbourhood comprising large and often similar Edwardian properties that are located within *Character Area 1: The Park* of the larger Queen's Park Conservation Area (CA), as defined within the *Queen's Park Conservation Area Character Statement* (CACS) dated 27 September 2018. Along with almost every dwelling in West Drive, the appeal property is identified within the CACS as a building that makes a 'positive' contribution to the character and appearance of the CA, local character, and the area's sense of place. The CACS goes on to identify how the loss of architectural details, including front walls, has had a deleterious impact on the appearance of the area. Where change has occurred, including to boundary treatments through the loss of traditional boundary walls and piers and by the formation of crossovers and hard standings, the CACS advises that every effort should be made to halt or reverse these changes so as to enhance the qualities of the area. An Article 4 Direction was put in place within the CA in 2022 which removes certain

- permitted development rights including the provision or replacement of a hard surface to the front of a house and the demolition, alteration or erection of a boundary wall, fence, railings, or a gate.
4. The appeal property currently has the benefit of a pavement crossover giving vehicular access to a single-width driveway leading to a former garage to the rear with tandem parking spaces to the side of the dwelling. The remaining width of the plot's frontage is enclosed by the front boundary wall. This arrangement is in-keeping with some other properties in the area where the CACS recognises that the width of some plots, together with the position of the dwellings, often allowed for the incorporation of a vehicular access from the outset. The proposal would involve demolition of part of the front boundary wall, with an existing pier moved and reinstated, in order to create a wider opening for two vehicles to park side by side, including one immediately in front of part of the dwelling. This would involve removal and lowering of part of the existing front garden area to create a contiguous hard surface level with the existing driveway.
 5. In my assessment, at around 5m, the increased width of the opening would be incongruous and out of step with the original and historic layout of the property and the character features of the wider area. The appellant has described only a modest reduction to the length of the front boundary wall. However, the consequence of this would be the creation of a significant gap across the frontage. Regardless of its rendered finish which contrasts with the brick finish of most others, the function of the boundary wall as a means of enclosing the property's original expanse of landscaped front garden would be lost, along with the aesthetic value of its continuous form in front of the building, save for the pedestrian opening. Contrary to the appellant's view, I find that there would be significant change to the existing arrangement, which would detract from the historic pattern of development.
 6. In addition, a major proportion of the property's front garden setting would be lost in favour of an open-faced hard surface, provided with the specific intention of creating an additional vehicle parking space. The setting of the appeal property would become significantly dominated by provision for a motor vehicle. This negative impact would be exaggerated at times when a vehicle would be parked on the newly created parking space.
 7. I have noted some examples nearby where driveway and frontage parking exists but these are not prevalent. Further, it is unclear when any of the changes beyond what may have been an original point of access occurred. They do not provide justification for the perpetuation of an ahistorical feature, and one which is recognised by the Council to be harmful and a continued threat.
 8. Overall, the changes proposed to the wall to the front of No 29, together with the changes in appearance and purpose to the front garden area, would detract from the positive contribution made by the appeal property to the CA, neither preserving nor enhancing its character or appearance.
 9. Although the property sits opposite Queen's Park, it is separated from it by the carriageway along West Drive and the kerbside parking allowed along this stretch of road. Moreover, the gardens are set well below the levels of West Drive. The proposed changes to No 29 would not be viewed within the context of Queen's Park to any significant degree. Neither would they be seen in any

meaningful way within the context of the building or its walls, piers, and railings at Pennant Lodge, which is separated from the appeal site by flats next door to the appeal property at Park View, and a road junction and vehicular access which runs between both these neighbouring buildings. I am satisfied therefore that the setting of these nearby heritage assets would be unaffected.

10. Having regard to paragraph 205 of the National Planning Policy Framework (the Framework), the harm arising from the proposal to the significance of the CA would be less than substantial. However, this does not equate to a less than substantial objection and any harm to a designated heritage asset requires clear and convincing justification in line with paragraph 206. Furthermore, in line with the Framework's paragraph 208, such harm should be weighed against the public benefits of the proposal.
11. Given the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA, I have attached significant weight to the harm that I have identified to the historic environment.
12. The appellant has argued that there would be increased visibility of, and from, cars using the site for parking. However, there is no evidence before me to demonstrate that there is an inherent problem associated with the existing arrangement. Furthermore, the proposed arrangement would not make provision for cars to be able to turn and therefore enter and exit the site in forward gear. Whether there would be any improvement to highway or pedestrian safety is moot and I attach little weight to any public benefit from the appeal proposal in this regard. I have no evidence to support the appellant's view that the absence of a third available parking space on the appeal site would contribute to unacceptable levels of parking congestion on West Drive.
13. I appreciate the appellant's intent to create an electric vehicle charging point. Compliance here with national and local commitments to a more sustainable, low carbon emissions future would bring some public benefit in terms of reduced emissions. However, the weight I attribute to this factor is insufficient to outweigh the harm to the character and appearance of the CA.

Conclusion

14. For the reasons given, notwithstanding my findings in relation to the nearby grade II listed Registered Park and Garden at Queen's Park and the grade II Pennant Lodge, I find that the proposal would harm the character and appearance of the Queen's Park Conservation Area. As such, there would be conflict with Policies CP12 and CP15 of the Brighton and Hove City Plan Part One, March 2016, and Policies DM18, DM21, DM26 and DM29 of the City Plan Part Two, October 2022, which between them seek to ensure, amongst other things, that development proposals display a quality of design that contributes positively to an area's local context and sense of place, and which conserves the city's built heritage including the retention of features that contribute positively to the identified character and appearance of a conservation area.
15. Accordingly, having regard to the conflict with local and national policy, and all other matters raised, I conclude that the appeal should fail.

John D Allan

INSPECTOR