



Appeal Decision

Site visit made on 9 April 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2024

Appeal Ref: APP/Q1445/W/23/3328649

126 Church Road, Brighton and Hove, Hove BN3 2EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Emad Abdulkhani on behalf of Persia against the decision of Brighton & Hove City Council.
 - The application Ref is BH2023/01101.
 - The development proposed is the erection of a rear first floor extension at an existing restaurant (Class E).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the local area and the extent to which it would preserve or enhance the character or appearance of the Cliftonville Conservation Area; and
 - whether sufficient information has been presented to demonstrate that the loss of residential accommodation can be justified.

Reasons

Character and appearance

3. The appeal building is a two storey terraced property that fronts Church Road. The wider area is densely built up with Church Road containing terraced buildings in use as commercial on the ground floor with the wider area being residential.
4. The Cliftonville Conservation Area (CA) covers an area encompassing the Cliftonville suburb which is predominantly residential with pockets of small-scale workshop use and Victorian shop frontages. Its significance is derived from classical stucco facades and semi-detached villas with visually successful extensions that match the scale, proportion and detail of the original building but are subordinate in mass and siting. Roofs vary in pitch, detail and eaves treatment, but within any one street or architectural group the roof and elevation detail is generally consistent and harmonious. Given the above, I find that the significance of the CA, insofar as it relates to these appeals, to be primarily associated with the historic development pattern in the area, including scale, rhythm and proportion.

5. There is already an extension to the rear of the of the first floor of the appeal building. However, this is modest in size and matches the scale and proportion of the original building. The proposed development would occupy most of the width of the appeal site and extend at a significant depth. While the proposal is located to the rear, the result would be a prominent feature that would be visible from Medina Villas and Osborne Villas.
6. I acknowledge that views are limited, however, the overall site coverage, as a result of the width and depth would draw attention to the development from these adjacent roads, even from fleeting passes by.
7. The roof of the proposal would be flat, and while I note the Councils concerns, the small extensions that are generally characteristic of the area are generally flat roofed and therefore this particular aspect of the design is generally in line with the roofscape. However, this does not mitigate the harm as a result of the considerable width and depth which results in an over prominent development that would have a poor relationship with adjoining neighbours and the streetscape.
8. Given the above, I find that the proposal would harm the character and appearance of the area and fail to preserve or enhance the character or appearance of the CA. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal.

Loss of residential accommodation

9. The appellant states that the first and second floors of the appeal building were in previous use as an HMO albeit this use ceased in 2019. Since this time the residential accommodation has been used by the appellant or restaurant staff. It is proposed that the first floor would be used for seating for the restaurant and the second floor would be used as a one-bedroom flat to be used by restaurant staff.
10. The appellant considers that there would be no net loss of residential accommodation as a flat would be provided on the second floor. However, while there would be some form of residential accommodation retained, this would be tied to the restaurant use and there would be no open market residential accommodation provided. It would also differ from the previous situation on the site and reduce the amount of accommodation from the small HMO and thereby result in a net loss of residential accommodation.
11. Policy DM2 of the City Plan Part Two Brighton & Hove City Council's Development Plan October 2022 (DP2) concerns retaining housing and residential accommodation. The Policy seeks to resist any net loss of existing residential accommodation in the city unless one or more of a set number of exemptions apply.
12. The proposed development would not meet any of the exemptions other than f) where the previous use of the building would be a material consideration. In this regard, I note the appellant's consideration of the success of the restaurant and its popularity, the desire to extend the restaurant into the first floor also demonstrates this.
13. However, while these matters are noted, the proposed development would result in a loss of residential accommodation. While a flat would be created on the second floor it would be small to serve the needs of the large number of

staff employed and also be tied to the restaurant use with no guarantee of this continuing.

14. I therefore conclude that sufficient information to demonstrate the loss of a residential unit of accommodation has not been demonstrated. It would be contrary to Policy DM2 of the DP2.

Other Matters

15. The appellant has referred to several examples of other developments nearby in an attempt to justify the proposed development. I do not have the full details in respect of such examples so I cannot be sure of the circumstances of these. In any case, I have determined the appeal on its own merits, based on the evidence before me.
16. However, from site observations while these tend to have flat roofs, which I have found that the proposal would generally be in line with. Those at first floor level are generally not as prominent as the appeal proposal due to its significant width and depth.
17. The Council have found that the proposed flat would provide adequate living conditions for future occupiers, however, this is a neutral matter.

Planning Balance

18. I have found that the proposed development would fail to preserve or enhance the character or appearance of the CA.
19. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
20. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal. There would be some benefit through the investment into the restaurant which the appellant states is a popular venue in the area. However, this is not sufficient to outweigh the harm that I have identified.
21. Given the above and in the absence of any defined significant public benefit, I conclude that, on balance, the proposal would fail to preserve or enhance the character or appearance of the CA. This would fail to satisfy the requirements of the Act, paragraph 197 of the Framework and conflict with Policies DM18, DM21 and DM26 of the DP2 as well as the Council's supplementary planning document design guide for extensions and alterations adopted 20 June 2013 which seek, among other things, to ensure that development makes a positive contribution to a sense of place and are well designed and scaled, sites and detailed in relation to the property to be extended. As a result, the proposal would not be in accordance with the development plan.

Conclusion

22. For the reasons given above the appeal should be dismissed.

D Wilson INSPECTOR