



Appeal Decision

Site visit made on 4 June 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2024

Appeal Ref: APP/Q1445/W/23/3326647

57-59 Brunswick Street West, Hove BN3 1EL

- 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 Elliot Raggio of 328 Developments Ltd against the decision of Brighton & Hove City Council.
 - The application Ref is BH2022/02836.
 - The development proposed is described on the application form as 'Redevelopment to provide for 4 residential units and an office suite.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, the proposed development would more accurately be described as the demolition of existing buildings and erection of a two to three storey terrace of 4 residential units (C3) and 1no office suite (E). The Council determined the proposal on that basis and so shall I.
3. The proposed development relates to the setting of a listed building and lies within a conservation area. Accordingly, I have had regard to the statutory duties set out in sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - whether the proposed development would preserve the setting of the nearby Grade I listed building and the extent to which the development would preserve or enhance the character or appearance of the Brunswick Town Conservation Area;
 - the effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to outlook and overlooking; and
 - whether a satisfactory standard of accommodation would be provided for future occupiers, with particular regard to outdoor amenity space.

Reasons

Character and appearance

5. The appeal site faces onto Brunswick Street West and comprises two-storey buildings, predominantly in commercial use, with a yard to the side.
6. Brunswick Street West forms a narrow street connecting the more principal streets of Western Road and Landsdowne Place. It is made up of a varied but generally modest series of buildings. Whilst most of these are in residential use, some non-residential uses exist. The varied appearance of the buildings along the street, many of which have been altered over time, creates an interesting and charming townscape that differs markedly in scale and design from the surrounding principal streets.
7. The proposed development would see the existing buildings demolished and replaced with a part two, part three storey building. This would feature prominent front and rear mansard roof structures. These elements would appear dominant and alien in this location, where the majority of properties are modest in scale and typically feature simple and unaltered pitched or hipped roofs. Only significantly larger properties, such as those along Brunswick Square, feature mansard style roof additions. Those properties are of an entirely different appearance and character to the properties within Brunswick Street West.
8. That the existing buildings on the appeal site are not locally listed, and that some modern interventions exist within the street, does not mean that development at the site should automatically be allowed where harm has been identified. I also note that the appellant has consciously designed the scheme so that the building is broken down into three distinct sections, and steps down the street as is presently the case. Nevertheless, this does not change my conclusion on this main issue.
9. Overall, I conclude that the proposed development would have a harmful effect on the character and appearance of the surrounding area, contrary to the relevant provisions of Policy CP12 of the City Plan Part One (CP1, 2016) and Policy DM18 of the City Plan Part Two (CP2, 2022). Those policies, in summary, seek to ensure high design quality in development that responds positively to its context.

Heritage assets – special interest and significance

Listed building at Nos 30-58, 30A and 33A (consecutive) and Attached Railings, Brunswick Square

10. The listed building is, in part, positioned adjacent to the appeal site. It is a Grade I listed building¹ dating from the nineteenth century and is finished, predominantly, in stucco with mansard roofs over and railings around front sunken forecourts.
11. Based on the evidence before me, the special interest and significance of the listed building is largely derived from its architectural and historic interest. Important contributors in these regards are its illustration as a grand set-piece

¹ List Entry Number: 1281017

of residential buildings around a formal garden square, and the use of traditional building techniques and materials.

12. Pertinent to the appeal, in relation to the settings of listed buildings and the contribution they make to the special interest and significance of assets, I have had regard to the definition of setting within the National Planning Policy Framework (the Framework).
13. The closely associated buildings, streets and alleyways that surround the listed building have an historic and visual connection with the heritage asset. Those along Brunswick Street West, which include the appeal site, form a tightly packed cluster of largely modest buildings, now used for domestic and workshop purposes, along a central, narrow street. These buildings and spaces, taken together, form the immediate setting of the listed building. It is from the adjoining streets that the asset is best appreciated, albeit to a lesser extent than from Brunswick Square itself. Nevertheless, this immediate setting contributes to the asset's special interest and significance.

Conservation Area

14. The appeal site is located within the Brunswick Town Conservation Area (CA).
15. The special interest and significance of the CA is largely derived from the preservation of its historic townscape. There is, as has been noted earlier, variation in building style and period but the material palette is typically limited to stucco, render and brick. The appeal site, consisting of a modest two-storey building, set against a tightly packed townscape, makes a limited contribution to the character and appearance of the CA, and thereby to its significance as a designated heritage asset.

Heritage assets – appeal proposal and effects

Listed building

16. There is no doubt that the proposal would change the appearance of the site. Nevertheless, due to the nature and extent of the alterations proposed, the now functionally separate relationship between the appeal site and listed building would be maintained and the asset's historic and architectural interest unaffected. The ability to appreciate the listed building from within its immediate setting, that contributes to the asset's significance, would remain largely undisturbed by the proposed scheme.
17. There would be no loss of historic fabric to the nearby listed building as a result of the proposed development. From that perspective, the development would not have any tangible effect on the attributes that underlie the special interest and significance of the asset.
18. Taking these factors into account, the proposed development would not compromise the setting of the Grade I listed building at Brunswick Square, rather it would have a neutral effect that would not detrimentally alter how the asset would be experienced and would not adversely affect the ability to appreciate its significance. Consequently, the setting of the listed building and the contribution that it makes to the asset's significance would be preserved.
19. Overall, I conclude that the proposed development would preserve the setting of the Grade I listed building and, consequently, it would not harm its

significance. In doing so, it would satisfy the requirements of section 66(1) of the Act. The proposal would also accord with the relevant provisions of CP1 Policy CP15 and CP2 Policy DM29, insofar as they seek to preserve heritage assets and their settings.

Conservation Area

20. The proposed development would be highly visible from Brunswick Street West. Its overall design and scale, in particular as a result of the proposed mansard roof additions, would be at odds with the prevailing character of the area and would erode the modest, simple appearance and rhythm of buildings within the street. Accordingly, it would have a harmful effect on, and thereby fail to preserve, the character and appearance of the CA as a whole.
21. Overall, the proposed development would fail to preserve or enhance the character or appearance of the CA, in conflict with the requirements of section 72(1) of the Act.

Heritage assets – public benefits and balance

22. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
23. With reference to paragraphs 207 and 208 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the extent of the development relative to the CA, I find the harm to be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, paragraph 208 advises that this harm should be weighed against the public benefits of the development.
24. The scheme would result in the provision of additional dwellings in the city, and therefore a contribution to housing supply in an area with an acknowledged lack of future provision. There would also be some economic benefits, including employment during the construction process, the increase in trade to local services and facilities following occupation and the provision of a small employment space. Additional council tax receipts are also noted. Furthermore, I acknowledge that the proposal would make efficient use of a small site in a sustainable location, as encouraged by the Framework. Nevertheless, these benefits, both in isolation and cumulatively, would be relatively limited by reason of the limited extent of the proposed development.
25. Overall, the weight that I ascribe to the public benefits that would accrue from the proposed development is not sufficient to outweigh the considerable importance and weight that I attach to the harm I have found. Overall, the proposed development would fail to preserve or enhance the character or appearance of the CA.
26. Consequently, it would be contrary to the requirements of section 72(1) of the Act, and the relevant provisions of the Framework which seek to conserve and enhance the historic environment. The proposed development would also

conflict with the relevant provisions of CP1 Policy CP15 and CP2 Policy DM26 which, in summary, seek to protect heritage assets.

Living conditions

27. The proposed development would be taller and bulkier than the existing building, particularly as a result of the proposed roof form, which would change from a shallow pitched roof to a steep-sided mansard roof. This would undoubtedly change the outlook from the rear of some properties fronting Brunswick Square, having a dominant presence, and creating a harmful sense of enclosure. I acknowledge that the position of the proposed rear building line would in part be shifted away from where it currently sits, and the rear mansard would in part be set back. However, this would not overcome the harm derived from the proposed roof arrangement overall.
28. As a result of the proposed development, a greater number of window openings would face towards properties to the rear of the appeal site, including those at an elevated position. These would be close to the rear facing windows of properties within Brunswick Square and to private amenity space. However, as the Council has pointed out, the rooms that those windows would serve are limited to bathrooms and landing areas. Accordingly, a condition could satisfactorily ensure that those windows were fitted with obscured glazing. I have no substantive evidence before me to demonstrate that perceived overlooking would be harmful to neighbouring occupants. Taking all these matters into account, I cannot conclude that the proposed development would have a harmful effect on the living conditions of the occupants of neighbouring properties in respect of overlooking or the perception of overlooking.
29. Overall, although I have not found harm in respect of overlooking, the sense of enclosure created by the proposed development would be harmful and contrary to the relevant provisions of CP2 Policy DM20, which in summary seeks to ensure that living conditions are protected.

Standard of accommodation

30. CP2 Policy DM1 sets out that all new residential development must provide useable private outdoor amenity space appropriate to the scale and character of the development. No specific measurements are set out within the policy's supporting text. Instead, it sets out that amenity space should provide sufficient space to accommodate a table and chairs, bins, an area to play and dry washing and circulation space.
31. The proposed development would provide a rear patio area and raised terrace for each dwelling. In both cases, these areas would be very limited. Nevertheless, space is provided which would be accessible and likely able to accommodate a small seating area, room to dry washing or accommodate plants. Play opportunities would clearly be limited. However, it would be difficult to accommodate significantly larger areas of external amenity space on this highly constrained site, certainly without relying on rooftop options. Whilst I have not been presented with any exploration of alternative arrangements, the amenity space set out would be adequate for the dwellings proposed in this particular instance.
32. Overall, I conclude that the proposed standard of accommodation, in this particular instance, would be acceptable. The proposed development would

therefore accord with the relevant provisions of CP2 Policy DM1 insofar as it relates to living conditions and the provision of outdoor amenity space.

Other Matters

33. I acknowledge that the proposed development would meet other planning policy objectives including in respect of daylight and sunlight. However, these matters are neutral in my determination of the appeal and do not lead me to change my conclusion on the main issues.
34. I note the reference to a previous scheme on the site. However, I am assessing the appeal scheme before me only.

Planning Balance and conclusion

35. As noted above, the Council cannot currently demonstrate a five-year housing land supply of deliverable housing sites. This means that the policies which are most important for determining the proposed development are deemed to be out of date in accordance with paragraph 11.d of the Framework. This states that in such a situation where development plan policies are deemed out-of-date, planning permission should be granted unless one of two criteria apply.
36. One of these, and which is pertinent to the appeal scheme before me, is if the application of policies of the Framework that protect areas or assets of particular importance, including designated heritage assets, provide a clear reason for refusing the development. As I have explained above, there would be harm to a conservation area that would not clearly be outweighed. Therefore, the proposed development would not benefit from the presumption in favour of sustainable development in this instance.
37. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR