



Appeal Decision

Site visit made on 24 July 2024

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2024

Appeal Ref: APP/Q1445/W/23/3334503

78 St. James's Street, BRIGHTON, BN2 1PA

- 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 Fethi Dogan against the decision of Brighton & Hove City Council.
 - The application Ref is BH2023/01543.
 - The development proposed is Retrospective application for the installation of replacement shopfront.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit works had been undertaken at the appeal property and the description of development refers to the proposal as "retrospective". It is, however, clear from the Council's documentation and from my observations on site that the shopfront which has been constructed is somewhat different from that which is detailed on the submitted plans in a number of ways. The differences include the design of the stall risers and the cill height of the windows. In the interests of clarity and for the avoidance of doubt I have determined the appeal on the basis of the submitted plans and not on the basis of the development which has been constructed.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the character and appearance of the area; including whether or not the proposed development would preserve or enhance the character or appearance of the East Cliff Conservation Area.

Reasons

4. The appeal property is a ground floor commercial premises which occupies a prominent corner plot at the junction of St James's Street and Rock Place. The property is located on a busy street and is surrounded by a variety of other similar buildings which appear to have commercial units at ground floor level and residential above.
5. The property is within the East Cliff Conservation Area (CA). The East Cliff Conservation Area Study and Enhancement Plan, September 2002 (SEP) states that the CA's significance is derived from it being an area of special architectural and historic interest, due to its clear association with the growth

of Brighton as a Regency and Victorian seaside resort. The SEP details that St James's Street remains, and has historically been, the principal shopping street of eastern Brighton and outlines that some good late 19th century shop fronts remain in whole or part. The SEP further sets out that some standard modern shopfronts are present which do not respect the proportions and materials of the parent buildings.

6. The proposal is for a new shopfront which incorporates sash windows to allow for enhanced ventilation of the commercial unit. The proposed joinery surrounding the glass panes would be disproportionately bulky and the visible bars within the window panes would visually disrupt the glass. The proposed windows would add harmful visual clutter to the clean lines and large panes of glass which were present on the previous shopfront.
7. Furthermore, Sash windows of the type proposed are not typically common place in commercial premises. Indeed, other shopfronts within the area, though they are of a variety of different designs, appear to broadly consist of large non-opening panes of glass surrounding the entrance to the building. I was not able to identify other examples of sash windows such as those proposed within the immediate vicinity of the appeal property at the time of my site visit. As such the proposed windows would appear incongruous and visually jarring when viewed in the context of surrounding properties and the wider CA.
8. The appellant suggests that other shopfronts within the area have been changed and whilst they have offered to identify some specific examples none have been provided as part of the evidence before me. In any event, each case must be determined on its own merits based on the specific circumstances at each site. These circumstances will rarely, if ever, be identical.
9. Nevertheless, at the time of my site visit I was able to identify some alternative fenestration designs. However, in my view, these serve to illustrate that changes of this type can indeed cause harm to the character and appearance of the area. As stated within the SEP and within the Council's evidence, changes to shop frontages (some of which are considered to have been unauthorised) elsewhere have caused harm along St James's Street in the past and should not excuse further unsuitable development.
10. For the reasons set out above, the proposal would cause harm to the character and appearance of the appeal property and the wider area. Thus, the proposed development would fail to preserve or enhance the character or appearance of the CA. Due to the scale and nature of the proposed development, the harm to the heritage asset would be less than substantial.
11. The approach in the National Planning Policy Framework (the Framework) is that where a proposal would lead to less than substantial harm to a heritage asset, as in this case, that harm should be balanced against the public benefits of the proposal.
12. I accept that the appellant requires enhanced ventilation at the appeal property and that the proposal would benefit staff and customers in this respect. I also acknowledge the economic benefits of having a premises which is well ventilated. I note that previous damage is said to have led to a need to replace the shopfront. However, in my view, the shopfront could be replaced and the enhanced ventilation could be achieved through alternative schemes which would not cause harm to the host building and to the wider area.

13. On the other side of the balance, I have identified that the proposal would fail to preserve or enhance the character or appearance of the area and as such would not meet the statutory requirements set out in s72 (1) of the Town and Country Planning (Listed Buildings and Conservation Areas Act) 1990 and would cause harm to the significance of the heritage asset. The Framework indicates that great weight should be given to a heritage asset's conservation. Accordingly, the public benefits of the scheme do not outweigh the harm identified.
14. I therefore conclude that the proposal would cause harm to the character and appearance of the building and the CA. Consequently, the proposal would conflict with Policies CP12 and CP15 of the Brighton & Hove City Plan Part One, March 2016 (LP) and Policy DM18 and DM26 of the Brighton & Hove City Plan Part Two, October 2022 (LP2). Amongst other things these policies seek to ensure that new development demonstrates a high standard of design, raises the standard of architecture and design in the city and conserves or enhances the city's built heritage including conservation areas.
15. The proposal would also fail to accord with LP2 Policy DM23 which relates specifically to shopfronts and states that permission will be granted for a new, replacement or altered shop front provided that it respects the scale, style, proportions, detailing, materials and finish of the parent building and surrounding buildings. The policy goes on to state that in conservation areas shop front proposals must preserve or enhance the special architectural and historic interest of the area or building and good quality traditional shop fronts or surviving elements must be retained and where necessary restored.

Other Matters

16. I note that the appellant has made changes to a previously refused scheme in order to overcome the harm which was identified. However, the changes to the proposal are not sufficient to successfully overcome all of the previous objections and, in my view, the scheme would, nevertheless be detrimental to the character and appearance of the area.

Conclusion

17. The proposed development would fail to accord with the development plan. There are no other material circumstances which indicate that planning permission should be granted. Therefore, for the reasons given above I conclude that the appeal should fail.

L J O'Brien

INSPECTOR