



Appeal Decision

Site visit made on 25 July 2024

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

an Inspector appointed by the Secretary of State

Decision date: 08 August 2024

Appeal Ref: APP/Q1445/W/24/3336547

52 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 Mr Dario Packham against the decision of Brighton & Hove City Council.
 - The application Ref is BH2023/01394.
 - The development proposed is Proposed alterations and extensions to provide second floor to extend existing two flats.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the course of the application the appellant submitted revised plans to the Council with the aim of overcoming a number of the objections raised. However, the Council refused to accept the amended plans as doing so would have required re-consultation and would have delayed the process. The Council also considered that the amendments were not sufficient to overcome their concerns. As the revised plans were not accepted by the Council and have not been subject to public consultation I have determined the appeal on the basis of the plans which were originally submitted and upon which the Council determined the application in the interests of fairness and transparency. I will, however, return to this issue later.

Main Issues

3. The main issues in this appeal are:
 - 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 Brunswick Town Conservation Area and the effect on the setting of the nearby listed buildings; and
 - the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to privacy and light; and
 - whether or not the proposed maisonettes would provide satisfactory living conditions for future occupiers with particular regard to space.

Reasons

4. The appeal property, 52 Brunswick Street West, is a two-storey mid terraced building. Brunswick Street West is a narrow street which connects the principal streets of Western Road and Lansdowne Place and is lined by close-knit terraced properties. The properties are largely in residential use, though a few commercial uses are present, and whilst buildings are varied in terms of design they are generally of a modest, traditional character and appearance.
5. In 2022 permission was granted to change the ground floor of the appeal building from a hot food takeaway to a two-bedroom dwelling¹. These works have commenced and at the time of my site visit were nearing completion.
6. The ground floor of the property is panelled with a central front door and glazing above the wood which has been painted sage green in colour. The red-brick first-floor is set back from the ground floor giving the building a staggered appearance.
7. The proposal is for alterations and extensions to the existing building to add a second floor and change the existing accommodation from two one-bedroom flats to two two-bedroom maisonettes.

Character and appearance

8. The appeal property is situated within the Brunswick Town Conservation Area (CA). The special interest and significance of the CA is largely derived from the preservation of its historic townscape. The Council Officer's report sets out that "The Brunswick Town Conservation Area Character Statement identifies sub areas. Brunswick Street West falls within the Planned Estate South (Brunswick Town, Adelaide Crescent & Palmeira Square) sub-area which the character statement describes as; Interspersed throughout this character area is a network of smaller streets and mews which form part of the original layout of both the Brunswick Town and Adelaide Crescent/Palmeira Square developments. The buildings here are lower in scale and reflect more closely local vernacular traditions not seen in the more prestigious streets and terraces."
9. The appeal site shares a rear boundary with the Grade II Listed Building at Nos 2 – 48 Lansdowne Place. The Council's evidence and the listing description indicates that the significance of this building lies in the architectural merit of its front elevation.
10. The appeal site has been described as something of an anomaly in the overall streetscape due to its lower height, red-brick first floor and UPVC windows. Thus, this building makes a limited contribution to the character and appearance of the CA, and thereby to its significance as a designated heritage asset.
11. The proposal is for the introduction of a second floor which would raise the height of the existing building so that it would sit just below the height of the existing buildings to either side. The first floor street facing fenestration would be replaced with new windows which would have proportions more akin to others in the vicinity. The first floor red-brick would also be replaced with a

¹ References BH2022/03202 and BH2023/00313

- painted sand/cement render. These aspects of the proposal would be positive and would enhance the current appearance of the appeal building.
12. The proposed second floor would extend further into the host plot than that at No 54. However, the proposed second floor would be set back from the existing principal rear building line. The proposal would also be set down from the top of the roofs on either side and set back from the ground floor front elevation and further set back from the first floor due to the introduction of the terraces. These design elements would ensure that it would not visually dominate the host dwelling or appear as an unduly prominent feature of the building. As such, in my view, the proposal would sit comfortably with the host dwelling and would not appear as a boxy overdevelopment of the appeal property in this regard.
 13. However, despite my findings in respect of the aspects detailed above, I find overall that the proposal would lead to a building which would have a piecemeal and visually jarring character and appearance.
 14. The finished building as proposed would have three distinct elements which would not complement one another. The ground floor of the building has recently been altered and has been finished with traditional materials and timber framed workshop style glazed panelling; appearing almost commercial in terms of its character and appearance. The first floor above would be finished in render with traditionally proportioned timber framed windows in keeping with the traditional appearance of other buildings nearby. The top floor would be finished in natural zinc cladding and would have a distinctly modern character and appearance.
 15. The three, competing elements of the proposed building would not sit comfortably alongside one another and the resultant building would appear as a series of disconnected elements rather than a cohesive building.
 16. Additionally, the aforementioned modern materials used in the construction of the proposed second floor would not reflect the prevailing palette of materials found within the area. The proposal would include zinc cladding and would incorporate large powder coated aluminium framed doors serving a front roof terrace behind a parapet wall. Such design features would appear incongruous when viewed in the context of the modest surrounding properties and the fenestration which is typical of the area. Furthermore, the introduction of an active outdoor use at second floor level would also be at odds with the character of this quiet back street.
 17. When viewed from the rear the ground and first floor elements of the building would both have a simple character and appearance and would sit comfortably together. However, the proposed zinc cladding at second floor level would be conspicuous and would not assimilate well with its surroundings.
 18. I note that due to its set back the additional storey would be screened from some viewpoints. However, Conservation Areas are to be experienced from both the public and the private realm and views would nevertheless be possible, including views from other nearby properties.
 19. Consequently, for the reasons set out above I consider that the proposal would create a visually unsympathetic building which 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. The proposal would, therefore, cause harm to the character and appearance of the area and would fail to preserve or enhance the character or appearance of the Brunswick Town Conservation Area. The proposal would also cause minimal harm to the setting and significance of the listed building at 2 – 48 Lansdowne Place to the rear. Due to the small scale of the proposal the harm to the heritage assets would be less than substantial.

20. 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.
21. The proposal would enhance the housing stock within an area where the parties agree there is an identified shortage. The Council are clear that there is a particular need for two-bedroom dwellings. This would undoubtedly be a public benefit of the scheme. However, due to the limited scale of the scheme this benefit can be afforded only minimal weight.
22. 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 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 proposal would also harm the setting and significance of a nearby Grade II listed building. 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.
23. Consequently, the proposal would conflict with Policies CP12 and CP15 of the Brighton & Hove City Plan Part One, March 2016 (LP) and Policy DM18, DM21 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.
24. The proposal would also fail to accord with Policy DM29 of LP2 which relates specifically to the setting of heritage assets and seeks to ensure that development within the setting of an asset would not harm the contribution that setting makes to the asset's significance.

Living conditions of neighbouring residents

25. Brunswick Street West is a narrow street with buildings lining each side within close proximity of one another. The proposed development includes a second floor terrace at each of the maisonettes. The terraces would be accessed via doors from the living room of each property and would be set behind a parapet wall.
26. Those using the proposed terraces would have largely unobstructed, close, views into the first floor windows of properties on the opposite side of Brunswick Street West to such an extent that it would significantly harm privacy.

27. Users of the proposed terraces would also be highly visible from the street below and from neighbouring properties thus increasing the perception of overlooking for those affected. In my view, the proposed terraces would lead to an unacceptable loss of privacy, both perceived and actual, for residents of neighbouring properties.
28. Though I note that the affected windows would be one floor below the terraces, overlooking would nevertheless be possible and the perception of being overlooked would not be reduced by the higher level of the terraces.
29. I acknowledge that in residential areas such as this some degree of mutual overlooking is commonplace. However, due to the open outdoor nature and the lack of intervening glazing, the use of an elevated terrace would enable a degree of overlooking above that which is to be expected in close-knit residential areas.
30. Consequently, the proposal would conflict with Policy DM20 of LP2 which states that planning permission for development will be granted where it would not cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby users, residents, occupiers or where it is not liable to be detrimental to human health. The supporting text to the policy specifically sets out that roof terraces and balconies amongst others should be carefully designed to avoid overlooking.
31. The proposed additional storey would be situated in the context of a tightly knit, dense pattern of development where buildings of around three storeys are commonplace. Though the additional storey would be likely to have some effect on the level of direct light reaching the rear of neighbouring properties, in respect of the properties at Nos 58 and 60 Brunswick Street West, this would be limited to the late morning and early afternoon due to the orientation of the properties. Moreover, the proposal would be a relatively small addition in the wider context and would not degrade the current situation to an unacceptable degree. Therefore, I do not consider that the proposal would cause harmful overshadowing to the rear gardens of neighbouring properties.

Living conditions of future occupiers

32. The supporting text to Policy DM1 of the Brighton & Hove City Plan Part Two, October 2022 (LP2) states that the importance of internal space and layout in the delivery of quality homes within the city has long been recognised by the Council. LP2 Policy DM1 states that planning applications for new residential development will be expected to meet the nationally described space standards (NDSS). The NDSS sets out minimum gross internal floor areas (GIA) for residential development.
33. The proposal would create two two-bedroom, four bed space maisonettes. The NDSS requires such units to provide a minimum GIA of 79sqm. The Council states that the south side flat as proposed would have a GIA of approximately 72.8sqm whilst the north side flat would have a GIA of approximately 73.6sqm. The appellant does not dispute these figures. Consequently, the proposal would fall significantly short of the space standards and would fail to comply with the NDSS and conflict with Policy DM1 of LP2 in this respect.

34. As such, I consider that the proposed maisonettes would provide a cramped living environment and would fail to provide satisfactory living conditions for future occupiers with particular regard to space.
35. I acknowledge that the standard of accommodation provided, including the introduction of outside space, would be an improvement on the current arrangement. However, in my view, improvements could be made which would not cause harm in the respects I have identified.
36. For the reasons set out above the proposal would fail to provide satisfactory living conditions for future occupiers with particular regard to space. Consequently, the proposal would conflict with Policy DM1 of LP2 which states that all residential units should meet the NDSS.

Other Matters and Planning Balance

37. In 2012 permission was granted², but not implemented, for changes including an additional storey to the building. This scheme removed the commercial frontage at ground floor level and included a more traditional residential entranceway. The entire front façade of the building proposed under that scheme was of a character and appearance which assimilated well with the wider area but which also appeared as one coherently designed building. As such, unlike the current scheme before me, the previously approved scheme did not appear as a piecemeal development but rather served to unite each storey of the building to provide a cohesive design. Moreover, this planning permission is of a significant age and I have no evidence before me to suggest that it has not lapsed. As such, this fallback position does not carry additional weight in favour of allowing the appeal.
38. Turning once again to the aforementioned amendments to the original plans which were submitted during the application process. Even if I had accepted the revised plans and determined the appeal on that basis, the revisions are not, in my view, sufficient to overcome the harm I have identified in respect of the effect of the proposal on the character and appearance of the area. Furthermore, the high level parapet wall would, in my view, be likely to have a detrimental impact on the levels of light reaching the proposed maisonettes and would also have the potential to create an oppressive outlook.
39. There is no dispute between the parties that the Council cannot demonstrate a five year housing land supply. The Council's most recent housing land supply position is published in the SHLAA Update 2022 which shows a five-year housing supply shortfall of 7,711 (equivalent to 1.8 years of housing supply). As the Council cannot demonstrate a five year housing land, supply Paragraph 11 (d) of the Framework indicates that planning permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. In this instance I have found that the proposal would cause harm to the significance of a designated heritage asset. As such, the presumption in favour of sustainable development would not apply.
40. Nevertheless, I note that the addition of housing, specifically, two units of two-bedroomed accommodation which are required, which would contribute towards the supply in the area would be a benefit of the scheme. This benefit

² Reference BH2012/01095

is, however, limited by the small scale of the proposal and must be considered in that context.

41. Conversely, I have found that the proposal would provide cramped and unsatisfactory living conditions for future occupiers and the housing which would be provided would not be of a high quality. The proposal would also cause harm to the character and appearance of the host dwelling, the CA and the setting of and significance of nearby listed buildings.
42. As such, in my view, the adverse effects of the proposal would significantly and demonstrably outweigh the benefits.

Conclusion

43. 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.

L J O'Brien

INSPECTOR