

Appeal Decision

Site visit made on 26 September 2024

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

an Inspector appointed by the Secretary of State

Decision date: 16th October 2024

Appeal Ref: APP/Q1445/W/24/3344578

5A Wyndham Street, Brighton, East Sussex, BN2 1AF

- 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 G B Planning Ltd against the decision of Brighton and Hove City Council.
 - The application Ref is BH2024/00152.
 - The development proposed is erection of an additional storey to provide a self-contained one bedroom flat (C3).
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Decision

1. The appeal is dismissed.

Main Issues

2. 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 East Cliff Conservation Area and the effect on the setting of the locally listed building; and
 - whether or not the proposal would provide satisfactory living conditions for future occupiers with particular regard to space.

Reasons

3. The appeal property, 5A Wyndham Street, is a three-storey building which occupies a corner plot at the junction of Wyndham Street and Upper St James's Street. The building comprises a retail premises at ground floor level with two two-bedroom flats above, one at first floor level and one at second. The appeal proposal is for the erection of an additional storey to provide a self-contained one-bedroom flat.

Character and appearance

4. The appeal site is within the East Cliff Conservation Area (CA). Adjacent to the property is the locally listed 5 Wyndham Street which is a two-storey, early nineteenth century cottage faced in painted brick, render and black painted flint on the first floor. On the opposite corner at 40-42 Upper St James's Street is a four-storey property with a restaurant on the ground floor.

5. Properties further along Wyndham Street are largely two or three-storey terraced dwellings which are residential in nature. There is a strong consistency to the design of the articulation to the buildings, particularly along the opposite side of the street to the appeal site, where three-storey projecting bay windows and a consistent building height create a strong rhythm along the street. A coherent and similar palette of materials further enhances the sense of uniformity. Together, these factors characterise this particular part of the CA.
6. The proposed additional storey would raise the height of the building so that it would be marginally lower than the opposite building at 40-42 Upper St James's Street. The building would, however, be notably higher than the majority of other buildings in the immediate area. The additional height would be highlighted by the changes to the proposed roof form.
7. The proposed building would be considerably higher than the neighbouring locally listed building at No 5. The locally listed building has a markedly different character and appearance to other buildings in the street and is tucked between two buildings of a greater height and scale. The proposal would add a further storey to the height discrepancy. In my view, the bulk of the proposed additional storey would lead to a building which would appear visually jarring in the context of No 5 and would enclose and dominate the locally listed building to a harmful degree.
8. Furthermore, the proposed semi-circular detailing to the roof, which would appear to have been added with the aim of reflecting that found opposite, would appear as a contrived and incongruous feature which would serve to exacerbate the harm I have set out above by further interrupting the fairly simple rhythm of the wider street scene.
9. As I have set out above, I note that the building at Nos 40-42 has been extended and is four-storeys. However, 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. The building at Nos 40-42 is, for example, of a different design to that proposed in this instance and has a different relationship with the nearby locally listed building. Moreover, this extension appears to have been approved¹ some time ago in 2013 in a different planning context, and certainly within a different policy framework, to that which is present now.
10. I acknowledge that the appellant received positive pre-application advice² regarding adding an additional storey to the building. However, such advice is given without prejudice and the specific details and design of the proposal is such that, whilst in principle a larger building would not necessarily be harmful, it would cause harm to the character and appearance of the area.
11. Consequently, though due to its corner location a building of a somewhat different appearance, perhaps with an additional storey, would be acceptable, in this instance the design of the proposed building is such that it would appear as an unsympathetic addition which would cause harm to the character and appearance of the host building and would fail to preserve or

¹ Application Reference BH2013/01106

² Pre-application Advice Reference PRE2023/00178

enhance the character or appearance of the CA. The proposal would also cause harm to the character and appearance of the locally listed building at No 5. Due to the small scale of the proposal this harm would be less than substantial.

12. 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.
13. I accept that the property has issues with drainage which the appellant seeks to rectify as part of this proposal. I also recognise that the proposed height of the building has been selected in order to meet the requirements set out within the Nationally Described Space Standards (NDSS). However, in my view, these aims could potentially be achieved through alternative schemes which would not cause harm to the host building and to the wider area.
14. 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 proposal would also cause harm to the neighbouring locally 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.
15. Consequently, the proposal would conflict with Policies CP12 and CP15 of the City Plan Part One -Brighton and Hove City Council's Development Plan, March 2016 (CPP1) and Policies DM21, DM26 and DM28 of the City Plan Part Two - Brighton and Hove City Council's Development Plan, October 2022 (CPP2). 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.

Living conditions

16. The supporting text to Policy DM1 of the CPP2 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. CPP2 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.
17. The proposal would add a one-bedroom flat at third floor level. The bedroom serving this flat would be, according to the evidence before me, 12sqm. The NDSS states that a room above 11.5sqm would be considered to provide two bedspaces. As such, the proposed additional unit would be a one bedroom, two person unit set over a single storey. A unit of this type should have a GIA of 50sqm with an additional built in storage area of 1.5sqm.
18. The evidence before me indicates that the proposed unit would have a GIA of 49.6sqm. I am also not satisfied that the required additional built in storage area would be provided. Consequently, the proposal would fall short of the

space standards and would fail to comply with the NDSS and conflict with Policy DM1 of CPP2 in this respect.

19. I note the appellant's suggestion that the proposal could be amended by reducing the thickness of the external wall and thereby increasing the GIA of the proposed flat. No mention appears to be made of the built in storage. However, this alteration does not form part of the proposal before me and there is no compelling evidence before me which identifies that this could, or how this could, be accomplished.
20. I also accept that the existing two bedroom flats at first and second floor levels have the same GIA as is proposed in this instance. However, it would seem that the approval of these units predates the NDSS and they were determined in a different policy context. Moreover, the existence of other examples is not a sufficient reason to justify granting planning permission for a proposal which does not meet the expectations of the extant planning policy.
21. These matters are not sufficient to overcome the harm I have identified.

Other Matters

22. There is no dispute between the parties that the Council cannot demonstrate a five year housing land supply. As such 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.
23. Nevertheless, I note that the addition of housing which would contribute towards the supply in the area would be a benefit of the scheme. This benefit is, however, limited by the small scale of the proposal and must be considered in that context. I also acknowledge the economic benefits of engaging local professionals, trades and suppliers and the ongoing benefit of the occupiers of the proposed dwelling utilising local facilities.
24. Conversely, I have found that the proposal would cause harm to the character and appearance of the street scene and the locally listed building at No 5 and would fail to preserve or enhance the character or appearance of the CA. The proposal would also fail to provide satisfactory living conditions for future occupiers. As such, in my view, the adverse effects would significantly and demonstrably outweigh the benefits.

Conclusion

25. For the reasons set out above, the proposal is contrary to the development plan. There are no material considerations that indicate that permission should be granted. Therefore, taking all other matters raised into account, the appeal is dismissed.

L J O'Brien INSPECTOR