



Appeal Decision

Site visit made on 8 January 2025

by Megan Thomas K.C. Barrister-at-Law

an Inspector appointed by the Secretary of State

Decision date: 29 January 2025

Appeal Ref: APP/Q1445/D/24/3351299

54 Richmond Road, Brighton BN2 3RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Simon Cornwell against the decision of Brighton and Hove City Council.
 - The application Ref BH2024/01468 was approved on 8 August 2024 and planning permission was granted subject to conditions.
 - The development permitted is “Energy efficiency measures to rear of property comprising external wall insulation (EWI) and replacement windows and doors, plus replacement aluminium window to front of property.”
 - The condition in dispute is No 3 which states that: The external finishes of the development hereby permitted shall be as follows: Proposed insulated render to be coloured to match the existing, Proposed fenestration to be coloured white to match the existing, Proposed roof tiles to match the existing.
 - The reason given for the condition is: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies CP12/CP15 of the Brighton & Hove City Plan Part One and DM21/DM26 of the Brighton & Hove City Plan Part Two.
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Decision

1. The appeal is allowed in part and the planning permission Ref BH2024/01468 for energy efficiency measures to rear of property comprising external wall insulation (EWI) and replacement windows and doors, plus replacement aluminium window to front of property at 54 Richmond Road, Brighton BN2 3RN granted on 8 August 2024 by Brighton and Hove City Council, is varied by deleting conditions 1 and 3 and substituting for them the following conditions:
 1. The development hereby permitted shall be carried out in accordance with approved drawings as follows: P001 (Site location and block plan), P102A (Existing Arrangement Elevation) and P103A (Proposed Arrangement Elevation) save that it is not necessary that the external wall insulation (EWI) with render finish as shown on P103A is coloured to match the existing rear elevation colour.
 3. The external finishes of the development hereby permitted shall be as follows:
 - Proposed fenestration to be coloured white to match the existing
 - Proposed roof tiles to match the existing

Procedural Matters

2. The appeal is against bullet points 1 and 2 of condition 3 attached to the planning permission and they read as follows:

"The external finishes of the development hereby permitted shall be as follows: -

- *Proposed insulated render to be coloured to match the existing*
 - *Proposed fenestration to be coloured white to match the existing "*
3. The appellant seeks the removal of those two bullet points within condition 3 which relate to the colour of the insulated render and the colour of the fenestration respectively. The appellant wishes to choose the colour in both cases.
 4. However, condition 1 requires the development to be carried out in accordance with the approved drawings and those are listed as P001, P102A and P103A. Drawing P103A is "Proposed arrangement Elevation" and shows the proposed rear elevation and proposed front elevation of the appeal site. The proposed rear elevation specifies that "(1) External Wall Insulation (EWI) with render finish (colour to match existing)" and "(3) White aluminium window/door." (3) refers to all the proposed windows (including one on the front elevation) and the door on the proposed rear elevation. Consequently, it is necessary to consider condition 1 of the planning permission for potential deletion and replacement in conjunction with consideration of condition 3.
 5. In this type of appeal, I have the jurisdiction to deal with the original planning application as if it had been made to me in the first instance. This includes a power to amend or delete existing conditions (whether or not the appeal relates to that condition) and/or impose new ones. Consequently, I include in my deliberations condition 1 for potential deletion and replacement. This does not prejudice the Council or any other interested person.

Main Issue

6. The appeal site is situated within the Round Hill Conservation Area 'CA'. The main issue in the appeal is the effect that varying condition 3 would have on the character and appearance of the CA.

Reasons

7. The appeal site relates to a two storey, plus lower ground level, terraced dwelling located in the Round Hill area of Brighton. It is on the south-eastern side of Richmond Road and within the Round Hill CA and the Round Hill Heritage Article 4 Area. It is not listed.
8. It has a grey painted render finish to its exterior walls on both the front and rear elevations. It also has white framed fenestration. The planning application sought, amongst other things, installation of external wall insulation on the rear elevation only. Also in relation to the rear elevation, it sought to replace the windows with modern alternatives and to replace a door with a window. On the front elevation, one window only was sought to be replaced.
9. The appellant seeks the ability to be able to choose the colour that the rear insulation render is painted rather than be obliged to paint it grey as required by condition 1 and condition 3. Similarly, he seeks to be able to choose the colour of the proposed fenestration rather than be obliged to colour it white as required by condition 1 and condition 3.

10. In coming to my decision I have had regard to section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 which requires a decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The Round Hill CA is notable for its hilly siting with long terraces of houses framing distant views of the sea to the south and of the downs to the east. The mainly late 19th century buildings are terraced with continuous frontages. Richmond Road has two types of house, semi-detached villas and terraced, of which the most notable are nos. 5-23, arranged in pairs along the west side of the road and dating to the 1860s. Numbers 2-94 are two storey houses with basements protected by cast iron railings. They have painted rendered fronts with attractive canted bays which largely retain their original sash windows. Some of them have decorated pediments over their front doors, picked out in scrolled patterns. A strong contributor to the significance of the CA is the uniformity of the buildings, their handsome bay windows and their often coloured facades.
11. Turning to the rear elevation paint colour after the EWI is installed, I have noted that Supplementary Planning Guidance Note 2 “*External Paint Finishes & Colours*” states that the use of intense, dark or primary colours, which are gaudy or which make a dramatic change to the appearance of listed buildings or properties in conservation areas, where Article IV Directions are in force, will require planning permission and/or listed building consent, and will normally be resisted. It also states that choice of colours is to some degree a matter of taste, influenced by fashion and by what has already been established in the area.
12. The appeal site is situated in a conservation area where an Article 4 (IV) direction is in force. The appellant seeks to be able to paint the EWI on the rear elevation a different colour to the grey which the rear elevation is currently painted. I do not consider that would be harmful given that it is a rear elevation which makes a limited contribution to the significance of the CA and it is not a listed building. If the paint colour was “intense, dark or primary colours, which [is] gaudy or which [made] a dramatic change” to the property then, according to the Supplementary Planning Guidance Note the Local Planning Authority could require that a planning application be made for that development.
13. I have also noted that there is informal advice on information sheet ref. EN/CR/IN/A4/22 explaining the Article 4 direction relating to the Round Hill CA, which clarifies that the article 4 direction does not restrict the painting of properties or choice of colour unless it is a listed building in the CA and that it is aimed at controlling the appearance of windows, doors and roofs on house frontages that face a highway but not to rear facades. That is subject to the application of a gaudy colour or dramatic change needing to obtain planning permission at the discretion of the Local Planning Authority as set out in SPGN2.
14. Consequently, the appellant’s request to delete the requirement for the external finish of the proposed insulated render to be coloured grey i.e to match the existing, is a reasonable one which would not detract from the significance of the CA and would preserve its character and appearance.
15. Turning to the second bullet point of condition 3, an important contributory factor to the significance and uniformity of the CA is the windows being painted or framed white. This often contrasts well with the painted elevations, provides definition and uniformity to the windows adding to the attractiveness of the CA. I consider this to be important for windows on rear facades even though public views of those tend to

be limited. On my site visit I noted that windows frames along Richmond Road were predominantly painted white and the uniformity adds to the special character of the road. I therefore consider it important that the planning permission in this appeal is subject to the requirement that “proposed fenestration to be coloured white to match existing” is retained in condition 3. A window on the front façade of the appeal site is sought to be replaced in this application in addition to fenestration changes on the rear façade.

16. Consequently, I conclude that the second bullet point in condition 3 is necessary in order to avoid unacceptable harm to the CA. I judge that harm to be less than substantial in NPPF terms but it is not outweighed by public benefits flowing from the proposal.

Other Matters

17. It follows that condition 1 should be deleted and substituted for a condition which does not require external wall insulation with render finish to be finished in a colour matching the existing colour of the rear elevation, as specified on drawing no.P103A (Proposed Arrangement Elevation).

Conclusion

18. Having taken into account all representations made and mindful of the relevant statutory duty, I allow the appeal in part.

Megan Thomas KC

INSPECTOR