
Appeal Decision

Site visit made on 24 June 2025

by **P Burley BA(Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th July 2025

Appeal Ref: APP/Q1445/W/25/3362919

The Park View, 71 Preston Drove, Brighton BN1 6LD

- 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 Mitchells & Butlers Retail Limited against the decision of Brighton & Hove City Council.
 - The application Ref is BH2024/02864.
 - The development proposed is erection of a goal post awning to customer terrace at the front of The Park View public house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application form states the development was completed in February 2024. During my site visit I saw that the goal post awning has been erected and that it appears to accord with the plans before me. Therefore, I have considered the appeal on the basis that the development has already taken place.

Main Issue

3. The main issue is whether the appeal scheme would preserve or enhance the character or appearance of Preston Park Conservation Area (CA).

Reasons

4. The appeal site is an area of land at the junction of Surrenden Road and Preston Drove and is predominantly laid out for use as a beer garden associated with the adjoining three-storey public house.
5. There is a noticeable level change between Surrenden Road – where the public house is accessed via its ground floor – and Preston Drove, where access to the public house is at first floor level. Preston Drove also slopes downwards from east to west.
6. Across Surrenden Road to the north-west of the appeal site is St Mary's Church which is described in the Preston Park Conservation Area Character Statement (2005) as a key building in the CA.
7. Whilst the awning was closed when I visited, the appellant's submissions include photographs of it in both the closed and open positions.

8. According to the application drawings the awning is approximately 12m in length and 6.5m in width when fully open. It is this size, together with its location on open land close to and parallel with Preston Drove, that make the awning an unduly prominent and incongruous feature in the CA. The prominence is accentuated in some views by the local topography, particularly looking south along Surrenden Road and looking west along Preston Drove.
9. I consider the appeal scheme to be particularly harmful when the awning is retracted and the large, linear metal structure is exposed to full view. When retracted the purpose of the supporting structure is not readily apparent and it appears as an alien feature in the townscape. It is especially harmful when looking north-east from close to the pelican crossing on Preston Drove near the public house; here the structure disrupts the appreciation of an attractive grouping of buildings which reflects the special character of the CA.
10. Because the appeal site is in a CA, I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. I consider that the appeal scheme fails to preserve or enhance the character and the appearance of the Preston Park Conservation Area and, as such, that the appeal scheme conflicts with Policy CP15 of Brighton & Hove City Council's City Plan Part One (2016) and with Policy DM26 of Brighton & Hove City Council's City Plan Part Two (2022) which seek to preserve or enhance the distinctive character and appearance of the city's conservation areas.

Other Matters

Setting of St Mary's Church

11. Whilst the Council's reason for refusal does not make reference to it, in its Statement of Case the appellant has referred to the effect of the appeal scheme on the setting of the Grade II-listed St Mary's Church on Surrenden Road. Section 66(1) of the Act requires decision-makers to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
12. During my visit to the appeal site and local area I considered the effect on this heritage asset and agree with appellant's assessment that the appeal scheme does not harm its setting and, in this regard, does not conflict with Policy DM29 of CPP2 which relates to the setting of heritage assets. However, the absence of harm to the setting of the listed building does not affect or reduce the harm to the CA caused by the appeal scheme.

Fallback

13. The appellant has suggested that any harm has to be judged in the context of what could be achieved under The General Permitted Development Order (GPDO), noting that if the awning was reduced to 50m² in size and to 3m in height, it would be permitted development.
14. I do not have such a scheme before me and therefore cannot conclude that what has been erected is no more impactful than that which could have been achieved under the GPDO. Furthermore, there is no indication that the appellant intends to implement such a scheme as an alternative.

Effect on Business

15. A number of third-party representations have been made in support of the appeal scheme.
16. The appellant has said that the awning allows more of the outdoor space to be in use year-round and that the associated economic benefits make a positive contribution towards the continued viability and success of the public house, which, in turn, secures the jobs that it provides. It has also stated that the planning system should afford significant weight to proposals that make a public house more attractive to its customer base and which make a positive contribution towards maintaining the optimal viable use of the property.
17. Whilst I attach some weight to the support for the development and the benefits set out by the appellant, I have not been provided with any evidence to suggest that the viability of the public house would be compromised if the awning was removed.

Planning Balance

18. 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. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
19. Given that it can only be seen from within a small part of the CA I consider that the appeal scheme results in less than substantial harm to the significance of this designated heritage asset.
20. I have taken account of the appellant's fallback argument, the support that has been expressed, and the public benefits which have been enumerated by the appellant. However, I do not consider that these outweigh the harm caused by the appeal scheme.
21. I do not consider there to be any material considerations which outweigh the conflict with the development plan when taken as a whole.

Conclusion

22. For the reasons given above the appeal should be dismissed.

P Burley

INSPECTOR