



Appeal Decision

Site visit made on 30 September 2025

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 October 2025

Appeal Ref: APP/Q1445/C/24/3341168

Appendage, 36 Kensington Gardens, Brighton BN1 4AL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
 - The appeal is made by Mr Hakan Kahraman against an enforcement notice issued by Brighton and Hove City Council.
 - The notice was issued on 20 February 2024.
 - The breach of planning control as alleged in the notice is *without planning permission replacement of metal shopfront and gates with timber shopfront and doors*.
 - The requirements of the notice are:
Remove the unauthorised shop front and re-instate the shop front to its former design, materials and appearance prior to the unauthorised works taking place.
 - The period for compliance with the requirement is: *6 months from the date the notice takes effect.*
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the 1990 Act (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.
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Formal Decision

1. It is directed that the enforcement notice (EN) be corrected by:
 - Rewording the matters that appear to constitute the breach of planning control at Section 3 of the EN to read as follows:

“Without planning permission, replacement of shopfront and metal gates with timber shopfront and doors.”
2. Subject to the correction the appeal is dismissed, the EN is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

Ground (a) appeal, the deemed planning application

Main Issue

3. The main issue is the effect of the development on the character and appearance of the North Laine Conservation Area (NLCA), street scene and the host property.

Reasons

Character and appearance and impact on the NLCA

4. 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 NLCA.
5. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner

appropriate to their significance. Paragraph 212 of the Framework states that 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

6. The appeal site is a terraced property located on the eastern side of Kensington Gardens within Brighton's North Laine shopping area. The area is mixed use with commercial premises located on the ground floor and upper floors being occupied for residential and office purposes. Brighton is renowned for the Royal Pavilion, the seafront and its grand regency terraces, crescents and squares. However, behind the grand frontages is the NLCA, unique to Brighton, whose significance is derived from the combination of residential streets and a large residential community with busy shops, workshops, cafes, pubs and restaurants in a lively blend. The streets and buildings, seen as a whole, form an area of townscape which is interesting, colourful and attractive.
7. Kensington Gardens forms part of the cohesive historic character of the NLCA, with the original buildings being gradually laid out in the 19th Century, with relatively high site coverage on narrow plots creating the slender pathways and routes through the Laines. The narrowness of Kensington Gardens is exhibited through a generally consistent shop frontage, albeit some temporary displays creep out onto the forecourts. It is the narrow nature and variation in shops that forms an integral part of the hustle and bustle associated with the NLCA and its ambience. Many of the properties in Kensington Gardens still retain their original shop frontages, which include features such as low timber stallrisers, colourful frontages, timber shop signs, and entrances/doors setback from the main building line providing a welcoming corridor as one approaches the entrance to these shops.
8. During my site observations, I noted that several shopfronts have been altered at other properties, including windows and doorways which appeared to have been replaced over time. This adds to the variation of treatments found in the area, and its bohemian feel. Nevertheless, despite the variation, the architectural design at the ground floor level has retained a generally consistent and rhythmic pattern, through the retention of traditional features on the frontages and use of traditional materials.
9. The appeal site has replaced an original shopfront containing single glazed windows and the setback doorway (as shown in the photograph in the Councils Statement of Case¹), with a more modern interpretation. The timber materials could be considered respectful; however, it is the modern approach to the design which is considered harmful. The thicker treatment of the window frames, doors, signage and stall risers, is not representative of the historic character and detailing of the original shopfront shown in the Councils photograph. Furthermore, the removal of the setback doorway provides a significantly different treatment in proportions to that of the original shopfront. Overall, the loss of the important original features, with specific regard to the removal of the setback entrance, provides a new shopfront which is detrimental to the host property, the surrounding area and the NLCA in general.

¹ Page 2 of the LPA Appeal Statement (Ref: ENF2022/00494)

10. From the evidence before me, the appellant required the changes to the shopfront as much of the original materials had become rotten and suffered from water ingress. Furthermore, the appellant refers to the requirement to provide a wider entrance and level access for all patrons' accessibility needs. I appreciate that the original shopfront, may have required significant refurbishment works to have been undertaken, however these could have been achieved in a more sympathetic and respectful manner. As such, the development as built is visually disruptive to the character and rhythm of the terrace of buildings in Kensington Gardens, resulting in a noticeable and harmful change to the host property and the NLCA.
11. The appeal site has not retained nor restored the traditional shopfront or surviving elements, and the replacement shopfront has not been based upon historic evidence or nearby historic examples either. The development is therefore contrary to policies CP12 and CP15 of the Brighton & Hove City Councils Development Plan Part One (BHDP1), adopted in March 2016; and policies DM18, DM21, DM23, and DM26 of the Brighton & Hove City Councils Development Plan Part Two (BHDP2), adopted April 2020, which amongst other things, seek a high quality of design, and provide that development in conservation areas (including shopfronts) should preserve or enhance the distinctive character and appearance of that conservation area.
12. Paragraph 212 of the Framework sets out that great weight should be given to the asset's conservation, irrespective of whether this would amount to substantial harm, total loss or less than substantial harm to significance. Paragraph 213 further advises that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.
13. Given the prominent position of the shop within Kensington Gardens, and the loss of the historic frontage, I find that the harm to the significance of the NLCA would be at the lower end of less than substantial. Nevertheless, these harms carry considerable importance and weight. In such circumstances, paragraph 215 of the Framework confirms that these harms should be weighed against the public benefits of the proposal, which includes securing the asset's optimum viable use.
14. I have had regard to the public benefits of the appeal scheme, which provides a modest contribution to the vitality and viability of the commercial area along Kensington Gardens and the North Laines in general. The development also results in some small social and economic benefits, including the support patrons would give to other local businesses and services. To these benefits I apportion moderate weight given the limited scale and nature of the development. However, the appeal scheme fails to preserve the significance of the NLCA, a designated heritage asset, to which I must attach importance and great weight.
15. Overall, the alterations to the shopfront including the loss of the recessed doorway/entrance causes unacceptable harm to the character and appearance of the surrounding area and the NLCA, in conflict with the Development Plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. As such, the enforcement notice will be upheld with a correction. Consequently, the ground (a) appeal does not succeed.

Conclusion

16. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with the correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Robert Naylor

INSPECTOR