
Appeal Decision

Site visit made on 14 January 2026

by **C Walker BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 January 2026

Appeal Ref: APP/Q1445/W/25/3375123

136 Freshfield Road, Brighton, Brighton & Hove BN2 0BR

- 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 Godfrey Investment Group Limited against the decision of Brighton & Hove City Council.
 - The application Ref is BH2024/03108.
 - The development proposed was originally described as 'application made under Section 73A of the Town & Country Planning Act (1990) (as amended) to secure the retrospective use of external materials, confirmation of parking permit restrictions, provision of cycle parking and landscape scheme, and to regularise the use of UPVC windows (proposed to be painted white), plus other retrospective minor external and internal alterations'.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use and conversion of vacant public house incorporating erection of three storey extension and associated works to create 3no. two bedroom flats (C3) with office space (Class E) and Café (Class E) at 136 Freshfield Road, Brighton, Brighton & Hove BN2 0BR in accordance with the terms of the application, Ref BH2024/03108, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have utilised the Council's amended description of development in my decision above, which the appellant has not disputed. Superfluous wording that does not form an act of development has been omitted.
3. The proposal is partly retrospective, with most of it having been completed, which I was able to observe on site. This includes the installation of UPVC windows within the original building which are a combination of anthracite grey and white in colour. The evidence suggests that it is the windows within the original part of the building that are in dispute, and I have confined my considerations accordingly.
4. An amended proposed ground floor plan (no. 0202-P100 Rev A) accompanies this appeal, amending the cycle parking arrangement. Likewise, an amended paint product is proposed for some of the UPVC windows. The changes are not substantive and the Council and other parties have had the opportunity of commenting on them. As such I accept them and proceed accordingly.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the host building at 136 Freshfield Road and the wider area, including the setting of the adjacent conservation area.

Reasons

6. The appeal site lies outside of but immediately adjacent to the boundary of the Queen's Park Conservation Area (CA). While there is no statutory protection to the setting of conservation areas, Paragraph 219 of the National Planning Policy Framework (the Framework) advises that proposals that preserve those elements of the setting of a conservation area that make a positive contribution to, or better reveal the significance of, the asset should be treated favourably. The Glossary to the Framework defines the setting of a heritage asset as the surroundings in which it is experienced. Consequently, in this case, it is pertinent to consider whether the significance of the CA would be affected by the development outside it.
7. Policy DM29 of the City Plan Part 2 (CPPT) (2022), sets out that development within the setting of a heritage asset will be permitted where its impact would not harm the contribution that the setting makes to the asset's significance, including by virtue of the development's design and materials. Considerations are expected to include the physical surrounds of the asset and the way in which views from, towards, through and across the asset allow its significance to be appreciated, whether the asset is visually dominant and any role it plays as a focal point or landmark and whether the setting was designed or has informally occurred over time, including the degree of change to the setting that has taken place. It goes on to say that where either substantial harm or less than substantial harm is identified, the applicant is expected to fully meet the requirements set out in the Framework, having regard to the significance of the heritage asset affected.
8. The extent of the CA is relatively well contained, mostly limited to properties that face the park. There is intervisibility between the CA and the appeal site as it provides a visual termination point from the junction of Queen's Park Terrace opposite, such that it is within its immediate setting.
9. Behind the larger detached villa's directly fronting the park, three storey terrace townhouses line Queen's Park Terrace. The architectural uniformity of these buildings and their features, including projecting bay windows is striking. However, some of these contain UPVC window frames. From the limited evidence before me, I find the prevailing character, and thus its special interest and significance, to largely stem from the park as a central focus for the detached villas that surround it, the hierarchy of streets, the prevailing building types and its evolution over time.
10. Occupying a prominent position at the junction of Freshfield Road and Cuthbert Road, the appeal site is a former Victorian public house that has since been converted to flats and extended. The original building is finished in white render and from the evidence before me, has planning permission for timber sliding sash windows to be installed. However, the windows in situ have modern UPVC frames, which apart from two upper windows facing north-west, are finished in anthracite grey. The extension in situ is constructed from brick and the use of differing facing materials allows for a clear distinction between the old and new elements.

11. Outside of the CA, along Freshfield Road and Cuthbert Road, there is no overall consistency of window design or materials. Although some are timber sash, there are many modern windows, including those within adjacent properties at 138 and 140 Freshfield Road. Consequently, there is a lack of unity of window types within the area.
12. The evidence indicates that an Article 4 Direction was introduced to the CA. No details of this are before me, although the Council's case alludes to it restricting the installation of UPVC windows within the CA. Notwithstanding this, part of the prevailing character of the area is the existence of UPVC windows both inside and outside of the CA.
13. Given its prominent siting, the UPVC windows subject of this appeal are visible from the wider area, including from part of the CA. However, other UPVC windows in the adjacent properties are equally as visible from within the CA, such that these do not appear particularly incongruous given the surrounding context.
14. I acknowledge that the installation of UPVC windows are likely to have changed the building's original appearance. However, no historic photographs have been provided of the appeal site itself to show the windows previously present. The windows installed within the host building are not consistent. Slim framed aluminium windows are contained in the new build, whilst the original rendered element contains both white and grey UPVC casements. In the absence of details of what was in situ previously, I am not able to make a meaningful comparison between them, albeit I accept the installed windows may well be chunkier frames by the nature of the materials and opening methods. The stark colour contrast of the anthracite grey against the white render exacerbates their prominence.
15. However, in mitigation these would be painted white, utilising a specialist product guaranteed for 10 years. Whilst I note the Council's concerns regarding longevity, there is no substantive evidence before me to show that treating the windows in this way would result in a poor appearance over time. Rather, I find that this would be suitable mitigation to reduce their prominence and offer unity on the original part of the building.
16. Amongst other things, Policies CP12 and CP15 of the City Plan Part One (CPPO) (2016) expects development to respect the prevailing character, including that of the historic environment. CPPT Policy DM21 is permissive of extensions and alterations provided they take account of the existing character of the area and use materials that complement the parent building. I have found that given the surrounding context, the UPVC windows do not fundamentally undermine the buildings character or appearance nor the wider area, including the setting of the adjacent CA. It follows that I do not find conflict with CPPO Policies CP12 and CP15 or CPPT Policies DM21 and DM29, the objectives of which I have outlined above.

Conditions

17. This appeal follows a previously approved scheme¹. The conditions of which, according to the Council, remain relevant and require updating, a matter not disputed by the appellant. The conditions imposed reflect these.

¹ Planning Ref: BH2018/02114 as amended by Planning Ref: BH2019/03037

18. For the avoidance of doubt and in the interests of certainty, I have imposed a condition (No. 1) requiring that the development is carried out in accordance with the approved plans.
19. Conditions 2, 3, 4 and 5 are necessary to safeguard the amenities of the area.
20. To ensure the provision of recycling storage facilities and cycle parking within a reasonable time period, conditions 6 and 7 are imposed. These are necessary in the interests of good planning, amenity and encouraging sustainable travel.
21. In the interests of the character and appearance of the area and biodiversity, condition 8 requires planting to be replaced if it fails within its first five years.
22. Finally, to achieve unity for the original building and in the interests of the character and appearance of the area, condition no. 8 requires the windows to be painted to match each other. To ensure favourable weather conditions allow for this, a period of 6 months for completion is considered reasonable.

Conclusion

23. For the reasons given above the appeal should be allowed.

C Walker

INSPECTOR

Schedule of Conditions

1.

The development hereby permitted shall be in accordance with the approved drawings numbers: 0202-P100 Rev A, 0202-P101, 0202-P102, 0202-P103, 0202-P001, 0202-P104, 0202-P105, LLD2945-LAN-DWG-100 and LLD2945-LAN-SCH-002 05.

2.

The office use (Class E) hereby permitted shall not be carried out except between the hours of 07:00 and 18:00 on Mondays to Fridays only.

3.

The cafe use (Class E) hereby permitted shall not be carried out except between the hours of 08:00 and 18:00 on Mondays to Saturdays and 09:00-17:00 Sundays, including Bank or Public Holidays.

4.

Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS 4142:2014. In addition, there should be no significant low frequency tones present.

5.

Amplified music or other entertainment noise from within the premises shall not be audible within any adjacent premises.

6.

Within three months of the date of this permission, the recycling storage facilities indicated on the approved plans shall be fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

7.

Within three months of the date of this permission, the cycle parking shown on the approved plans shall be provided and retained for use by the occupants of, and visitors to, the development at all times.

8.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

9.

Within six months of the date of this permission, the grey windows within the original rendered building shall be painted white, in accordance with the product specification set out in the letter dated 10 June 2025 by Wilbury Planning.

End of Conditions Schedule