



Appeal Decision

Site visit made on 15 December 2025

by **C Housden BSc(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27th February 2026

Appeal Ref: APP/Q1445/W/25/3373994

62 Albion Hill, Brighton BN2 9NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Viktorija Garskaite of Dragonfly against the decision of Brighton & Hove City Council.
 - The application ref is BH2025/01622.
 - The application sought planning permission for renovation of existing public house (sui generis) including internal alterations to the existing first floor ancillary landlords/Managers accommodation (sui generis) with part demolition and erection of ground floor and first floor extensions, replacement windows and doors, facade alterations, roof alterations including raising the roof ridge height and all associated works without complying with conditions attached to planning permission ref BH2024/00507, dated 6 June 2024.
 - The conditions in dispute are nos 4 and 17 which state that:
Condition 4:
Notwithstanding the approved plans, prior to any internal or external works to the western and southern elevations, a full photographic survey of the existing glazed ceramic tiling and lettering on the façade of the building shall be carried out and submitted to the Local Planning Authority (LPA) for approval, with details of those tiles due to be replaced due to unauthorised removal or currently missing, details of those tiles to be repaired or reinstated due to existing damage, and details of those tiles which are proposed to be removed to facilitate the approved works, and for their replacement or repair to be agreed in writing by the LPA prior to any internal or external works to the western and southern elevations. The works to these elevations shall then be carried out in full accordance with approved details, unless otherwise agreed in writing by the LPA. All replacement tiling and lettering shall be replicated in font, size, colour, material and finish to match the existing.

Condition 17:
Notwithstanding the approved plans, all intact tiles, and tiles with surface scuffing and/or minor damage, which are not required to be removed to enable the repair of structural steelwork shall be retained, unless otherwise agreed in writing by the Local Planning Authority (LPA).
 - The reasons given for the conditions are:
Condition 4:
To ensure the satisfactory retention and replication of elements of this locally listed building and to comply with policy DM28 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

Condition 17
To ensure the satisfactory retention and replication of elements of this locally listed building and to comply with policy DM28 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One
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Decision

1. The appeal is allowed and planning permission is granted for renovation of existing public house (sui generis) including internal alterations to the existing first floor ancillary landlords/Managers accommodation (sui generis) with part demolition and erection of ground floor and first floor extensions, replacement windows and doors, facade alterations, roof alterations including raising the roof ridge height and all associated works at 62 Albion Hill, Brighton BN2 9NX in accordance with the application ref BH2025/01622 without compliance with condition numbers 4 and 17 previously imposed on planning permission ref BH2024/00507 dated 6 June 2024 and subject to the conditions set out in the accompanying schedule.

Applications for costs

2. An application for costs was made by Viktorija Garskaite of Dragonfly against Brighton and Hove City Council. This application is the subject of a separate decision.

Procedural Matters

3. A further submission was made by the appellant on the 3rd November 2025, following the original appeal submission. As this evidence was submitted before the start date of the appeal, I am satisfied the Council has had sufficient opportunity to comment upon this information and would not be prejudiced by its inclusion.

Background and Main Issue

4. Planning permission was granted by the Council on 6 June 2024¹ for the renovation of the existing public house. This was subject to a range of conditions, including nos 4 and 17 which relate to the tiled façade of the host building, a non-designated heritage asset (NDHA). The reasons for these conditions are stated to ensure the satisfactory retention and replication of elements of the locally listed building. This appeal proposes to remove both condition nos 4 and 17, which the appellant contends fails to meet the tests set out in paragraph 57 of the National Planning Policy Framework (the Framework) and replace them with alternatively worded conditions.
5. The main issue is therefore whether conditions 4 and 17 of planning permission BH2024/00507 meet the tests of paragraph 57 of the Framework and the effect of replacing the conditions on the significance of 62 Albion Hill, a NDHA.

Reasons

6. The Heritage Statement² submitted by the appellant sets out that the special interest of 62 Albion Hill lies in the architectural and historical merits of the principal street elevations at ground floor level where the tiled facades allow the building to be readily distinguishable as a public house, whilst also standing out visually within the street. The design is described as eye catching and contributes to a landmark quality of the building, whilst identifying it as a hub of local social activity. The tiled lettering further provides evidence of the Portsmouth & Brighton United Breweries (United Breweries) historic presence within the area. The

¹ LPA ref BH2024/00507

² February 2024 by the Heritage Corp

Council's local listing highlights the building is a good example of a regional approach to public house frontage design and the green tiled frontage is indicative of the United Breweries. It highlights that the intactness of the building through retaining its design integrity contributes to its significance. Based on my observations on site, I concur with this evidence.

7. As is clear from the evidence and my observations on site, the tiled frontage of the building makes an important contribution to the significance of the non-designated heritage asset. Whilst I note that many tiles have been damaged or removed, this would not detract from the significance of the NDHA that they contribute towards, in accordance with paragraph 209 of the Framework.
8. In relation to condition 17, this requires all tiles to be retained on the façades of the building that are not required to be removed to enable the repair of structural steelwork. However, the appellant's evidence³ clearly sets out that the structural steel and steel lintels have been subject to severe corrosion, are beyond repair and require removal and replacement. Whilst the Council contends that the reports have already been reviewed by it as part of the original application, I have not been provided with a compelling explanation as to why the appellant's evidence is deficient. I also have not been provided with any alternative surveys or evidence to contest the appellant's structural findings. I am therefore satisfied that I have suitable evidence before me to understand the structural integrity of the building.
9. The evidence, much of which has been available since the determination of the planning application, is clear that the removal of the tiles is required to replace the steelwork which is now beyond repair. The removal of the tiles, before the steps to reinstate the façades of the building, would result in some limited harm due to a loss of historic intactness. However, taking into account the status of the building as a NDHA and using a balanced judgement, condition 17 is unreasonable and fails to meet the tests set out in paragraph 57 of the Framework.
10. In relation to condition 4, this requires the submission of an additional photographic survey of the façades of the building, along with the submission to, and approval by the Council, of details of the tiles to be replaced, repaired or reinstated, and details of the tiles proposed to be removed to facilitate the approved works.
11. Evidence was submitted with the application which includes plans showing the conditions of the tiles⁴ along with photographs of the elevations of the building. It is therefore not necessary to submit further details relating to the existing façades of the building as this is already well documented.
12. The previously referred to structural reports are also clear that, along with the findings relating to the steelwork, significant sections of the walls need to be rebuilt to ensure the structural integrity of the building. In these circumstances, the evidence adequately shows that the tiles would need to be removed from the façades to undertake the necessary works. Whilst the principle of a condition ensuring the tiles are replaced, repaired and reinstated is necessary, in considering if condition 4 is reasonable I have had regard to paragraph 216 of the Framework. This states that in relation to a NDHA, a balanced judgement is

³ Visual Structural Survey Report November 2022 & letter dated 9 February 2024 by Couch Consulting Engineers

⁴ Design & Access Statement (2024), Tile Façade Condition Drawings (Undated and Unnumbered)

required, having regard to the scale of any harm or loss and the significance of the heritage asset.

13. The contribution of the tiles to the significance of the NDHA is derived from the contribution they make to the property as a landmark feature within the street and as a distinguishable historic public house with association to the United Breweries. As such, the significance is predominantly derived from the contribution of the tiles to the overall appearance of the building, and to a much lesser extent the specific quality of the original materials themselves.
14. Therefore, whilst maintaining a record of the tiles which are replaced, repaired and reinstated would be an important part of ensuring the approved works are undertaken in accordance with the terms of the planning permission, on balance, it is overly onerous to require such detail to be first submitted to and approved by the Council. As such, condition 4 is not reasonable and does not meet the test set out in paragraph 57 of the Framework.
15. The appellant has suggested two replacement conditions which I have considered in the context of paragraph 57 of the Framework. In the first instance, elements of both the suggested conditions duplicate text so I consider it reasonable to combine them into a single condition. It is also not necessary to reiterate the already submitted existing façade information. I have also amended some wording in the interests of enforceability and precision. The proposed condition would allow for the required structural works to be undertaken, whilst also ensuring that existing tiles that are capable of being repaired or reused are reinstated, and where this is not the case, appropriate replica tiles are used. The condition would be reasonable and necessary in the interests of conserving the significance of the NDHA. It would also be appropriately worded in order to be relevant, precise and ensure enforceability.
16. As mentioned, some limited harm would arise to the significance of the non-designated heritage asset through the removal of the original ceramic glazed tiles to undertake the structural works, which would result in a loss of historic material intactness. However, the replacement condition would ensure that the ceramic glazed tile façades of the building would be restored, including where appropriate using original tiles. Furthermore, the proposal would secure the refurbishment, structural safety and long-term future of the NDHA. It would also facilitate the re-opening of a building which is designated as an Asset of Community Value, whilst also generating jobs for the local area. These considerations would be of considerable weight, which outweighs the harm to the non-designated heritage asset, in accordance with paragraph 216 of the Framework.
17. As a result, the removal and replacement of conditions 4 and 17 would comply with Policy CP15 of the Brighton and Hove City Plan Part One (2016) and Policy DM28 of the Brighton and Hove City Plan Part Two (2022). These policies, amongst other matters, seek to ensure the historic environment is conserved and enhanced, and alterations and extensions to locally listed heritage assets, or new development within its curtilage, should be of a high standard of design that respects the special interest of the asset.

Other Matters

18. The Council has highlighted that both conditions 4 and 17 were discharged as part of a recently allowed appeal⁵. It therefore contends that this Inspector considered the conditions to meet the tests as set out in paragraph 57 of the Framework.
19. However, it is clear from the decision letter the matter before this Inspector was whether the submitted details were sufficient to discharge the conditions, not whether they met the tests of the Framework. This Inspector did not benefit from the same evidence and considerations as I have. Therefore, this decision does not alter my findings.
20. The Council and interested parties have highlighted that the removal of some of the tiles was done without planning permission, unlawful works have been undertaken and the site is currently subject to enforcement proceedings. However, Planning Practice Guidance (PPG) is clear that under section 73, the decision maker must only consider the disputed conditions that are the subject of the application. Furthermore, I have also had due regard to paragraph 209 of the Framework in considering the significance of the NDHA and reaching to my decision.
21. Concern has been raised regarding a precedent being set, particularly where works have been undertaken without planning permission. However, each case is determined on its own merits and on the basis of the evidence of each case. I am satisfied that my decision on this proposal, would not harm the ability of the Council to exercise in equity their judgement, including undertaking enforcement actions, on other matters.

Conditions

22. For the reasons given above, I have removed conditions 4 and 17 of BH2024/00507 and replaced them with a single condition (condition 4).
23. In relation to conditions 3, 8 and 9 the evidence shows that these were discharged as part of the previous appeal ref 3369410. I have therefore amended conditions 3, 8 and 9 to ensure works are undertaken in compliance with the details approved by this appeal.
24. In relation to the time limit condition, this must run from the date of the original permission and as such I have adjusted condition 2 to reflect this.
25. The PPG⁶ sets out that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. As I have little information before me about the status of the other remaining conditions, I shall impose all those that I consider to remain relevant. In the event that some have in fact been discharged, this is a matter which can be addressed by the parties.

Conclusion

26. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed conditions, substituting them

⁵ PINS ref APP/Q1445/W/25/3369410

⁶ Paragraph: 004 Reference ID: 21a-040-20190723

for an alternative condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

C Housden

INSPECTOR

-- Schedule of Conditions --

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Plan Type	Reference	Version	Date Received
Location and block plan	124 - PR - 001		6 March 2024
Block Plan	124 - 01EX - 101		26 February 2024
Proposed Drawing	124 - 01PR - 101		3 May 2024

2. The development hereby permitted shall be commenced before the expiration of three years from the date of 6 June 2024.
3. The development shall be carried out in accordance with the approved materials for the render and roof tiling, glazed tile cladding and hard surfacing materials (under application ref BH2025/00347 & appeal ref APP/Q1445/W/25/3369410) unless otherwise agreed in writing with the Local Planning Authority.
4. Any tiles that are required to be removed to carry out the permitted works shall be repaired and re-instated where they are demonstrably sound and capable of safe re-use. Where replacement tiling and lettering is required, this shall replicate the original in font, size, colour, material and finish, using the approved tile samples. These works shall be carried out prior to the first occupation of the development hereby permitted.
5. The development hereby permitted shall not be first occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
6. The hard surfaces within the landscaping shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct runoff water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
7. All new render finishes shall be smooth, lime-based, wet render without external beads, stops, bell drips or expansion joints.
8. The development shall be carried out in accordance with the approved scheme for the new windows, reveals, cills and joinery (under application ref BH2025/00347 & appeal ref APP/Q1445/W/25/3369410) and shall be retained at all times thereafter, unless otherwise agreed in writing with the Local Planning Authority.
9. The development shall be carried out in accordance with the approved scheme for the new doors and joinery (under application ref BH2025/00347 & appeal ref

APP/Q1445/W/25/3369410) and shall be retained at all times thereafter, unless otherwise agreed in writing with the Local Planning Authority.

10. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.
11. The development hereby approved shall not be occupied until a report and scheme for the proposed Soundproofing the Party Walls/Floors between the ground floor public house the first floor ancillary residential unit and the party walls of No.63 Albion Hill has been submitted to and approved in writing by the Local Planning Authority.

Unless otherwise agreed in writing, the submitted scheme shall demonstrate it would achieve a minimum of 5dB(A) better than Approved Document E in terms of horizontal and vertical airborne sound insulation performance. The approved scheme shall be permanently maintained thereafter. The developer shall certify to the Local Planning Authority that the noise mitigation measures agreed have been installed.

12. Prior to first use of any plant or machinery associated with the approved development an acoustic report should be submitted to the Local Planning Authority demonstrating that 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 the existing LA90 background noise level, and retained as such thereafter. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS4142:2014-A1:2019 (or the relevant updated Standard). In addition, there should be no significant low frequency tones present.
13. The development hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans (124-01PR-101) received on 03/05/2024. The internal layouts shall be retained as first implemented thereafter.
14. The ground floor outdoor area to the rear of the public house as detailed 'Pub Private Access/Store' and 'Accommodation External Storage' on approved plan reference number: 124-01PR-101 received on the 3rd May 2024, shall only be used for storage and access, and not as outdoor amenity space for users of the building or staff at anytime.
15. The development hereby permitted shall incorporate at least three (3) swift bricks within the external walls of the development and shall be retained thereafter.

16. One or more bee bricks shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

-- End of Schedule --