



Appeal Decision

Site visit made on 3 February 2012

by Elizabeth Fieldhouse DipTP DipUD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 February 2012

Appeal Ref: APP/Q1445/A/11/2163201
24 St James's Street, Brighton, BN2 1RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by J C S Enterprises Limited against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/02334, dated 3 August 2011, was refused by notice dated 7 October 2011.
 - The development proposed is creation of fourth floor to form two bedroom flat.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed development would preserve or enhance the character or appearance of the East Cliff Conservation Area; and whether adequate provision would be made to offset the demand for travel created by the development.

Reasons

Conservation area

3. The appeal property is a recently developed four storey flat roofed building at the corner of St James's Street and Dorset Gardens that comprises retail premises on the ground floor with three floors of flats above. The flat roof is surrounded by a fairly low parapet. The proposal would accommodate a two bedroom flat in a block on the existing roof set in from the south, east and north elevations with planting outside railings around the terrace at the southern end. In terms of materials and form the proposed structure would reflect the design of the existing building.
4. The East Cliff Conservation Area was largely developed in the 18th and 19th centuries and is characterised by straight intersecting terraces. St James's Street is a principal shopping street that rises up from Old Steine with regular junctions with the narrower north south streets. The appeal property adjoins older three storey properties that step up the hill under their pitch roof and often accommodate a floor within the roof lit by dormer windows evident behind the eaves or parapet. The parapet around the roof of the appeal building steps up from that adjoining but the ridge of the neighbouring property is higher than the existing building at no.24.

5. The proposed additional floor would be set back from the road frontage but, rather than being recessive in form like the attached pitch roof, it would be a similar design to the building. Therefore the proposal would appear as a long box shape on the roof and, due to its form and flat roof, would be more dominant and obtrusive than the pitched roofs on the attached terrace. This, added to the width of the appeal site compared to neighbouring attached terrace on the St James's Street frontage, would result in a building that would dominate views, create an alien and imposing skyline and have an overbearing impact on the attached terrace. Thereby harming the visual amenities.
6. The existing building forms a focus at, but does not dominate the corner of Dorset Gardens and St James's Street or neighbouring buildings. Nevertheless, from Dorset Gardens, the proposed additional floor set in about 1m from the side elevation would result in a building that would not only dominate the attached Dorset House but views down Dorset Gardens of the neighbouring Methodist Chapel. Apart from the tower, the Chapel would appear lower than the proposed extended building as the higher part of the Chapel is set well back from the frontage and not 'read' with the corner building.
7. The appeal building is prominent and partially closes the views north from Madeira Place that lies to the south. At present, the partially 'glazed' tower on the Methodist Chapel is visible over the appeal building from some viewpoints. However, it does not dominate the vista nor do views of the tower justify the withholding of planning permission. Planting and railings at rooftop level behind a parapet are not unusual in more recent developments. Nevertheless, due to the fairly low parapet, the planting and railings would be clearly visible and prominent in views of the building from the south. The planting and railings would draw attention to the additional floor and its incongruous relationship to the attached traditional terrace.
8. Overall, by reason of its scale and form, the proposed development would unacceptably compromise the character and visual amenities of this part of the conservation area. It would visually diminish the value of the terrace to which it would be attached and dominate nearby buildings fronting Dorset Gardens. For the reasons given the additional floor on the existing building would fail to preserve or enhance the character or appearance of the conservation area. It would be contrary to Brighton & Hove Local Plan (LP) policies QD1, QD14a and HE6
9. The original building on the site was higher than that proposed but appears to have been demolished in the 1950s. Planning permission was granted in 2004 (ref. BH2003/01805/FP) for redevelopment of the appeal site and 30 Dorset Gardens. Later amendments were also approved. Although 30 Dorset Gardens was built, there were inaccuracies in the submitted drawings which misrepresented the relationship between that proposed and existing buildings. The erected building was subject to a later retrospective planning permission. The overall height of the building including the appeal proposal may only be 500mm greater than the scheme approved in 2004/2005. Nevertheless, that permission was based on inaccurate drawings and does not justify the additional floor that would be visually dominating and overbearing.
10. On the opposite corner of St James's Street and Dorset Gardens, planning permission has been granted for a flat roof building with development at roof level set back behind the parapet. That site adjoins different buildings, is on higher land and, from drawing P3, would appear not to project to the same

extent, if at all, above the attached pitched roof building. It does not justify the appeal proposal.

Travel demand

11. LP policy TR1 requires development proposals to provide for the demand for travel they create. A section 106 Unilateral Undertaking dated 24 November 2011 was submitted that provides for a contribution towards the cost of the provision and/or improvement of sustainable transport infrastructure within the vicinity of the property and the associated Council costs. Although the Undertaking was signed, no plan was attached, therefore it is incomplete. In any event, from all that has been submitted, it is not possible to assess why the specific level of contribution is necessary or the precise purposes for which the contribution would be used. Therefore all the tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 would not be met. In the light of the information provided, the requirement for a contribution has not been justified or met.

Overall conclusion

12. Regard has been paid to all material considerations. Nevertheless, by reason of its height, form and position, no justification has been found for the proposal which would dominate and detract unacceptably from the roof form/skyline of the terrace to which it would be attached and neighbouring buildings in Dorset Gardens. Thereby the immediate street scenes would be harmed to the detriment of the conservation area. For the reasons given the appeal should be dismissed.

Elizabeth Fieldhouse

INSPECTOR

