



Appeal Decision

Site visit made on 5 August 2013

by **David Harmston FRICS DipTP MRTPI**

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

Decision date: 16 August 2013

Appeal Ref: APP/Q1445/A/13/2193822

5 – 6 Western Road, Hove, East Sussex BN3 1AE

- 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 Mr Tony Sallows against the decision of Brighton & Hove City Council.
 - The application (Ref BH2012/03954), dated 6 December 2012, was refused by notice dated 12 February 2013.
 - The development proposed is the erection of a timber and glass screen enclosing an external smokers' area with roller blinds over and access gates.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a timber and glass screen enclosing an external smokers' area with roller blinds over and access gates at 5 – 6 Western Road, Hove, East Sussex BN3 1AE in accordance with the terms of the application (Ref BH2012/03954), dated 6 December 2012.

Preliminary Matters

2. I have adopted the description of the development as stated on the application form as this adequately describes the proposal. The development has already been undertaken and the application was made retrospectively. I note that the application included the former name of the premises (*CAPS*) in the site address but it is now *Rick's Bistro*. This is of no materiality to the appeal or my decision. I also noted that the timber divides are now painted white.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area and the streetscene in Western Road having regard to the location of the site within the Brunswick Town Conservation Area.

Reasons

4. Western Road is a heavily-trafficked, main thoroughfare leading into central Brighton from the west. It has a strong sense of activity and vibrancy with few empty premises and a wide mixture of large, multiple retail operators interposed with small, convenience shops, restaurants, cafes, takeaways, bars, public houses and financial services uses. The premises the subject of the appeal are in use on the ground floor as a restaurant or bar with the

- smokers' area to the front occupying the forecourt. This is about 1.8m deep overall, slightly encroaching onto the footpath. The enclosure has been created by the installation of timber screens with planters and awnings above.
5. There are many other examples of locations in Western Road where the forecourts in front of commercial premises are in active use for one purpose or another. For instance, within close proximity to the appeal site, *The Duke of Norfolk* public house has tables and benches outside as do *The Golden Grill* and *The Casba* restaurants. The appellant has pointed out many other examples of premises within the neighbourhood where forecourts are in use as outward extensions of restaurants for sitting out purposes. I do not know whether or not these uses have (or need) planning permission but they contribute to the vitality of the area, fulfilling a need and adding interest.
 6. Generally, the forecourts that are in such use within the area have not been formalised and separated physically from the footpath as is the case at the appeal site. However, their presence does mean that the ground floor uses are effectively extended towards the edge of the pavement with a similar visual impact. As the premises are located within the Brunswick Town Conservation Area it is necessary to determine whether or not the development serves to preserve or enhance the character or appearance of the Area
 7. It seems to me that at street level the character of the area is determined by the numerous commercial premises having their own individuality in terms of uses, shopfronts and signage. Billboards proliferate, illuminated signs and awnings are numerous and the general paraphernalia associated with a thriving retailing location draw the eye rather than any special qualities of the buildings themselves. For this reason I do not consider that the development has any negative impact on the character or appearance of Western Road or that it fails to preserve or enhance the Area in these terms.
 8. The Council argues that the structure appears incongruous in the streetscene; that the building line of the premises nearby is consistent and the forecourts generally open. I do not consider that to be a fair description of the area based on the uses and activities that I observed. I acknowledge that the development is unique to this immediate area because it introduces a semi-permanent form of construction onto the forecourt. However, in visual terms I do not consider that any material harm has been caused or that the screens and planters appear particularly out of place. The Council refers to the issue of precedent but each case falls to be considered on its own planning merits.
 9. I have considered and taken into account the representations made by a number of third parties in relation to the application including the views expressed by the Lansdowne Area Residents' Association. Particularly, I note the objections made concerning the reduction in the width of the pavement. However, the appellant confirms that a licence under the Highways Act (1980) has been granted for the small encroachment (of about 50cm) that the development has caused and adequate space for pedestrians on the footpath remains. The Council has raised no objections to the development in this respect and, based on the adequacy of the remaining footpath width, I concur with that conclusion.

10. The roller blind box for the awnings is of a type that has been installed elsewhere in Western Road and is not overly conspicuous or visually inoffensive. Whilst the Council's Supplementary Planning Document *Shop Front Design* (SPD 02) advocates the installation of such features to be mounted within or below fascias, rather than on them, in this instance no undue visual harm has been created. For all these reasons in all key respects I consider that there is no material conflict between the development and policies QD14 and HE6 of the Brighton and Hove Local Plan or the National Planning Policy Framework.
11. I have taken into account and afforded weight to all the other matters raised both by the Council and the interested persons but nothing is of sufficient weight to alter my conclusions above and the reasons for them and I shall allow the appeal. No conditions have been suggested by the Council and, being a retrospective form of development, none are appropriate or necessary.

David Harmston

Inspector

