

---

## Appeal Decision

Site visit made on 14 April 2014

**by Louise Phillips MA (Cantab), MSc, MRTPI**

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

**Decision date: 22 April 2014**

---

**Appeal Ref: APP/Q1445/A/13/2207408**

**Leonardo Restaurant, 55-57 Church Road, Hove, East Sussex BN3 2BD**

- 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 Cleto Capetta, Leonardo Restaurant, against the decision of Brighton & Hove City Council.
  - The application Ref BH2013/01962, dated 14 June 2013, was refused by notice dated 9 August 2013.
  - The development proposed is ground floor extensions at rear of property, reconstruction of rear outrigger, new external steps to basement, increase in size of basement to facilitate additional dining area (part retrospective).
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The description of development above is taken from the application form. However, both the decision notice and appeal form additionally refer to the proposed installation of extract units to the flat roof. Extract units are indeed shown on the plans and I have had regard to this aspect of the proposal in determining the appeal.
3. The description of development indicates that the proposal is partly retrospective. I observed on my site visit that the area below the rear courtyard has already been incorporated into the lower ground floor basement and that the external steps providing access from the basement to the yard have been reconstructed in the proposed position. However, the basement has not yet been converted into restaurant accommodation and it is not possible to reach the repositioned steps from inside the basement.
4. In reaching my decision, I have had regard to the recently published Planning Practice Guidance.

### Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the host building and on that of the Conservation Area in which it is located.

## Reasons

6. The appeal relates to two mid-terrace Victorian properties on Church Road. Church Road comprises attractive buildings which are in mainly commercial use at ground floor level with either residential or office accommodation above. Several of the side streets in the area are primarily residential, including Selborne Road to the east of the appeal site. The site lies within The Avenues Conservation Area, a designated heritage asset. The Council has described the Conservation Area and considers that its homogeneity, the scale of its buildings and their recurring architectural features & materials are the significant characteristics which should be protected.
7. The appeal properties are linked at ground floor level so that they form one single restaurant, "Leonardo". Both basement areas are also used for storage in connection with the restaurant, but access to each is via a separate staircase. There is a single storey, flat roofed extension to the rear of No 55, which contains the kitchen. It occupies the full width of the property and the full depth of the rear garden/yard area up to a passageway adjacent to No 1 Selborne Road. The roof accommodates a conservatory-style rooflight, an air conditioning unit and four kitchen extraction ducts which curve over the edge of the roof onto the walls of the extension.
8. No 57 has a two-storey outrigger/rear projection on the boundary with No 55 which presently has a sloping roof. Most of the rear garden area of No 57 remains as an open yard except for a wooden shed-type addition to No 55's extension, but it clearly appears to form part of the overall restaurant premises.
9. The proposed development would increase the width of the existing single storey extension at ground floor level so that it would straddle the 'boundary' between Nos 55 and 57. This part of the extension would also be the full depth of the yard area. A further single storey addition would infill the area between the outrigger at No 57 and that at No 59 Church Road, which adjoins the appeal site to the west.
10. The existing outrigger to No 57 would be rebuilt with a flat roof and the basement area would be extended below ground level. As stated above, part of the basement extension has already been carried out and new external steps are provided in the yard. A new ventilation/extraction system would be provided within the building, requiring various plant and ducting on the flat roof of the main single storey extension. The ducting would continue vertically up the exterior of the outrigger with the uppermost section being contained within a new false chimney.
11. The proposed ground floor extensions would cover the same floor area and footprint as would similar extensions previously approved by the Council under Ref BH2007/00942. Since then, the Council has adopted new guidance relating to the scale of single storey rear extensions in a Supplementary Planning Document (SPD)<sup>1</sup> with which the present proposals would now conflict. In my view, it is therefore reasonable for the Council to have reached a different conclusion on each application.

---

<sup>1</sup> SPD12: Design Guide for Extensions and Alterations, June 2013.

12. However, while I agree with the Council that the existing extension to the rear of No 55 detracts considerably from the original plan layout of the buildings in the Conservation Area, I do not consider that the proposed increase in width across the boundary with No 57 would not have a significant additional impact. Given the scale of the existing extension, its proximity to the yard area of No 57 and the combined use of the ground floor premises, this boundary no longer has the effect of separating two distinct properties. In this respect, I note that the large conservatory extension to the front of the restaurant also appears to unite the buildings at ground floor level.
13. Neither the infill extension nor the additional width of the main extension would be seen from public vantage points within the Conservation Area. The east elevation of the main extension would be visible from Selborne Road and it would be taller than the existing one. However, it would remain set back from the road behind a parking area to the rear of Nos 51 & 53 Church Road and a large flat roofed garage adjacent to No 1 Selborne Road. Thus it would not be prominent in the street scene and the parapet wall design and simple conservatory rooflight would improve upon the appearance of the existing structure.
14. Therefore in the context of the existing development on the site, I do not consider that the proposed single storey extensions would be unduly harmful to the character and appearance of the appeal property, or to that of the wider Conservation Area. Nor do I consider that the extension of the basement area, or the repositioning of the exterior steps to it, have any significant effect in respect of character and appearance. Further, I agree with the Council that the flat roof design of the reconstructed two-storey outrigger would be in keeping with the style of several others at the neighbouring properties.
15. However, I do have significant concerns about the effects of the proposed extraction equipment. From Selborne Road, I could see a tall, vertical extraction duct on the rear of a building towards the eastern end of the terrace, but there is no proliferation of such equipment in the area. Therefore the existing equipment on the roof of the current extension, which is clearly visible from Selborne Road, is a discordant feature in the Conservation Area.
16. Whilst the proposed equipment would not overhang the walls of the extension, there would be considerably more of it on the roof. This would be visible from a large number of upper floor windows in the Conservation Area, from which the site would look rather industrial. Similarly, while the extension would have a parapet wall, much of the ductwork would be higher than this and would be visible above it from Selborne Road. The conservatory rooflight would screen the long horizontal pipe running north/south in this view but, on the ground, it would be possible to see most of the equipment sited at the northern end of the roof.
17. Furthermore, the new ducting would have a vertical element which does not currently exist. Whilst the proposed false chimney represents an innovative solution to hide the upper extent of this, a long section of pipe would be clearly visible at the north east corner of the outrigger. The outrigger would be designed with a cut-away corner into which the pipe would be recessed, but it would still be prominent in the street scene by virtue of its height and length. I am also concerned that the cut-away corner would itself be a permanent and peculiar feature were the ducting to be removed or replaced in the future.

18. I recognise that the permission granted under BH2007/00942 provided for an unprotected flue across the roof of the extension and up the back edge of the building. The drawings I have seen suggest that this would not look particularly attractive, but I do not have enough information to make a full comparison of its effects versus those of the present proposal. Therefore this previously permitted scheme does not alter my view.
19. For the reasons above, I conclude that the proposed development would be harmful to the character and appearance of the host building and would fail to preserve the character and appearance of the Conservation Area, causing harm to its significance as a designated heritage asset. Thus it would conflict with the provisions of the Framework in this regard and with Policy HE6 of the Local Plan<sup>2</sup>, which requires proposals to preserve or enhance the character and appearance of Conservation Areas. It would also conflict with Policy QD14 of the Local Plan insofar as it relates to alterations to existing buildings. Policy QD1 concerns proposals for new buildings and so I do not consider it to be particularly relevant to the appeal scheme.

### **Other Matters**

20. In reaching my decision I have taken account of the issues raised by third parties. The restaurant would be considerably larger as a result of the proposed development and I sympathise with the concerns expressed in respect of noise made by staff and customers as opposed to that which could emanate from the extraction units. The latter issue is considered in a technical report<sup>3</sup>.
21. Similarly, I sympathise with nearby occupiers who state that fire doors are often propped open, giving rise to increased noise and smells, and that bins are placed in the shared rear alleyway rather than in the yard. Both issues were in evidence when I visited. However, given my findings in relation to the main issue of the appeal, my decision does not turn on these other matters. Therefore I have not considered whether it would be necessary or possible to address them with conditions.

### **Conclusion**

22. For the reasons given above I conclude that the appeal should be dismissed.

*Louise Phillips*

INSPECTOR

---

<sup>2</sup> Brighton & Hove Local Plan, 2005.

<sup>3</sup> Measurement of Existing Noise Levels & Assessment of Ductborne Kitchen Extract & Plant Noise, Acoustic Associates Sussex Ltd, 9 May 2013.