



## Appeal Decision

Site visit made on 18 March 2014

**by Elizabeth Lawrence BTP MRTPI**

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

**Decision date: 22 April 2014**

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### **Appeal Ref: APP/Q1445/A/13/2211700**

### **41 – 45 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 Mr Art Stuart against the decision of Brighton and Hove City Council.
  - The application Ref: BH2013/02811 dated 15 August 2013, was refused by notice dated 24 October 2013.
  - The development proposed is described as an apartment, single storey, on an existing flat roof, at 4<sup>th</sup> floor level. The design has been changed reducing the height and the walls are now glass clad panels, addressing previous comment and so reducing the visual impact of the development.
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### **Preliminary matters**

1. On 6 March 2014 the Planning Practice Guidance (planning guidance) was published by the Department for Communities & Local Government. In relation to this Appeal the planning guidance refers to the design and heritage statements set out in the National Planning Policy Framework (NPPF), which are addressed in this decision.
2. The proposed floor plan clearly identifies a glazed balustrade around the southern roof terrace, but it is unclear whether this balustrade continues around the east and north facing walkways. However, the drawings showing the proposed east and north elevations clearly show that the balustrade would not continue along the eastern and northern sides of the proposed roof extension. Also that there would be a Juliet style balcony in front of the proposed north facing bedroom doors. For the avoidance of any doubt I confirm that this decision is based upon the details shown on the drawings showing the proposed eastern and northern elevations of the proposed development.

### **Decision**

3. The appeal is allowed and planning permission is granted for an apartment, single storey, on an existing flat roof, at 4<sup>th</sup> floor level. The design has been changed reducing the height and the walls are now glass clad panels, addressing previous comment and so reducing the visual impact of the development at 41 – 45 St. James's Street, Brighton, BN2 1RF in accordance
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with the terms of the application, Ref BH2013/02811, dated 15 August 2013, subject to the conditions set out in the schedule attached to this decision.

### **Main Issues**

4. The first main issue is the effect of the scheme on the character and appearance of the surrounding townscape. The second main issue is the effect of the scheme on the living conditions of the existing occupants of the Appeal building, with particular regard to privacy.

### **Reasons**

#### *Character and appearance*

5. The Appeal site is located on the east side of Brighton, in an accessible urban area. It is an area where policy HO4 of the Brighton and Hove Local Plan seeks to make full and effective use of land and allows for residential developments at higher densities than those typically found in the area. This is consistent with the NPPF which states that housing applications should be considered in the context of the presumption in favour of sustainable development.
6. The Appeal site is also located within the East Cliff Conservation Area (ECCA), which is characterised by long Regency and Victorian terraces fronting onto straight, narrow lanes. The street pattern has a predominant north/south orientation and the lanes rise up steeply to the north. St James's Street runs from west to east and forms the main shopping street in the locality. It is narrow, with numerous junctions which open up wider views within the conservation area, including views down to the seafront.
7. Policy HE6 of the Local Plan seeks to ensure that new development is to a high quality design and respects or enhances the character or appearance of the conservation area. Design detailing should reflect the scale, character or appearance of the area and materials and finishes should be sympathetic to the conservation area.
8. The terraced buildings (Nos.87 -90), located diagonally opposite the Appeal site, are grade II listed and comprise a mix of late 18<sup>th</sup> to early 19<sup>th</sup> century stucco faced, three and four storey buildings. Collectively their front features include canted bay and bow windows, traditional timber sash windows, parapet roofs, a balcony with iron railings, cornices and modest scale shop-fronts. Policy HE3 of the Local Plan states that development will not be permitted where it would have an adverse impact on the setting of a listed building.
9. Policies HE3 and HE6 of the Local Plan are both broadly consistent with the NPPF, which states that when considering the impact of a development on the significance of a designated heritage asset great weight should be given to the conservation of the heritage asset. Any harm to a designated heritage asset requires clear and convincing justification and where a proposal would lead to less than substantial harm, such harm should be weighed against the public benefits of the proposal. In this instance the ECCA and the listed buildings are designated heritage assets.
10. In relation to design the NPPF states that new development should respond to local character and history, add to the overall quality of the area and be visually attractive as a result of good architecture and landscaping. Policies

- QD1, QD2 & QD14 of the Local Plan similarly require new development to be well designed and to make a positive contribution to the visual quality of the environment. It should emphasise and enhance the positive qualities of the neighbourhood and take account of local characteristics including height, scale, bulk, impact on skyline and the design of existing buildings.
11. The Appeal building is located adjacent to the junction of St James's Street and Chapel Street and comprises a comparatively large modern four storey building with rendered and white painted walls and a flat roof. The front of the building is split into four strong vertical sections, which break up the width of the building and the horizontal lines of the glazing. These divisions also respect the width of the terraced buildings sited immediately to the west, which are stucco faced and three to five storeys in height, with strong parapet roof lines.
  12. The southern building lines of the Appeal building are set back slightly from those of the adjoining buildings to the west and the adjacent building to the east. This reduces the prominence of the Appeal building when viewed from St James's Street. To the north of the Appeal site is a large 17 storey flats development which dominates the streetscape in within Chapel Street and Ardingly Street.
  13. The proposed extension would be set back several metres from the southern edge of the existing roof and the associated balustrade would be set back in excess of one metre from the southern roof edge. The extension would also be set in from the other edges of the existing roof and to the rear it would be set behind the existing roof terrace at third floor level. The height of the extension, its roof overhang and balustrade design would all be in keeping with the host building. In addition, the design and proportions of the main fenestration would complement the existing fenestration and building proportions. The height of the resultant building would continue to step down to the rear and the varied heights of the building would respect the varied roof-scape within southern part of Chapel Street.
  14. As a result of these factors views of the proposed extension and balustrade from St James's Street and within the setting of the adjacent listed buildings would be restricted to glimpses. From Chapel Street and Ardingly Street the extension would be seen as subservient to and in proportion with the host building. Similarly, the proposed balustrades would blend in appropriately with those on the floor below.
  15. Due to its siting and relatively modest and varied depth the proposed extension would reduce the long horizontal lines of the existing east facing elevation. The extension would appear contemporary and would add to the visual quality of the building, making a positive contribution to the quality and appearance of the immediate locality. It would preserve the character and appearance of the ECCA and the setting of the adjacent listed buildings.
  16. At the same time the scheme would make full and effective use of a previously developed site in a highly accessible mixed area, as well as making a modest contribution towards the supply of housing within Brighton and Hove as a whole.

17. I conclude on this main issue that the scheme would respect and be readily assimilated into the surrounding townscape and would comply with policies HO4, HE3, HE6, QD1, QD2 & QD14 of the Local Plan and the NPPF.

*Living conditions*

18. The main terrace would be located at the front of the building and would benefit from a southerly aspect and views towards the coast. This terrace would be enclosed by a glazed balustrade, which would be set back from the existing front facade of the building. It would also be elevated above the windows serving the upper floors of the buildings on the south side of St James's Street. To the east and west any views towards nearby windows from the proposed terrace and windows would be at oblique angles and/or at the flank elevations of existing buildings. As a consequence the use of the proposed terrace and the outlook from the proposed south, west and east facing windows would not result in a material loss of privacy for the occupants of any adjoining or nearby properties.
19. The proposed decking to the east and north of the proposed flat would be approximately one metre wide and would not be enclosed by a balustrade. As pointed out by the Appellant these areas would be used for maintenance purposes and would have little appeal for recreational use due to their limited depth and unfavourable aspects. In view of the attractive environment that would be provided within the south facing terrace it is improbable that the small decked areas elsewhere around the proposed flat would be used for prolonged recreational purposes. As such they would be highly unlikely to result in a material loss of privacy within the existing rear roof terraces.
20. It would be possible to view part of the existing rear roof terrace from the north facing doors to bedroom 1 and its associated lobby window. However, having regard to the nature of these rooms and the fact that the bedroom would also benefit from large east facing windows with views towards the coast, their existence would not result in an unacceptable level of overlooking for existing residents.
21. For these reasons I conclude on this main issue that the proposal would not have a materially harmful impact on the living conditions of any existing residents due to loss of privacy. It would therefore comply with policy QD27 of the Local Plan, which seeks to protect the living conditions of existing residents.

**Conditions**

22. The Council has suggested the imposition of conditions regarding external materials and finishes; the construction of the flat to Lifetime Homes Standards; the provision of cycle, recycling and refuse storage facilities; energy efficiency/sustainability; waste minimisation; the provision of external wires, aerials, pipe work, flues, meter boxes, etc; and restrictions on the use of the roof of the proposed flat. I consider that all of these conditions are both reasonable and necessary to ensure the development blends in with the host building and the street scene; provides an energy efficient home suitable for people with disabilities and the changing needs of households; to minimise any waste to landfill; to encourage sustainable means of transport; and to protect the living conditions of nearby residents.

23. I also consider it is necessary to impose a condition which requires the development to be carried out in accordance with the approved drawings. This is for the avoidance of doubt and in the interests of proper planning.
24. The Appellant has commented that conditions relating to a waste minimisation plan and the provision of cycle parking are not necessary. This is because there is ample cycle parking on the ground floor and a waste minimisation statement was submitted with the application. Unfortunately no details regarding the existing cycle storage area have been submitted and so it is not possible to assess its suitability. Also, it is not stated whether the long term retention of the existing cycle storage area is secured. In relation to waste minimisation the submitted statement is extremely brief and does not address how any demolition waste would be recovered and reused. As such the suggested conditions are necessary.

**Conclusion**

25. Having regard to the favourable conclusions on both main issues the Appeal is allowed.

*Elizabeth Lawrence*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 050.01, 050.02, 050.10, 050.11, 050.12, 050.13, 050.14, 050.15, 050.16, 050.17, 050,18, 050,19, 050,20 and 050.21.
- 3) The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.
- 4) The new dwelling hereby permitted shall be constructed to Lifetime Homes standards prior to its first occupation and shall be retained as such thereafter.
- 5) The development hereby permitted shall not be commenced 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. These facilities shall be fully implemented and made available for use prior to the occupation of the dwelling hereby permitted and shall thereafter be retained for use at all times.
- 6) No development shall take place until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the local planning authority. The approved storage facilities shall be fully implemented and made available for use prior to the occupation of the dwelling hereby permitted and shall thereafter be retained for use at all times.
- 7) Unless otherwise agreed in writing by the local planning authority, the development shall not commence until a Design Stage/Interim Code for Sustainable Homes Certificate demonstrating that the development achieves a Code for Sustainable Homes rating of Code level 3 as a minimum for the dwelling has been submitted to and approved in writing by the local planning authority. A completed pre-assessment estimator will not be acceptable.
- 8) Unless otherwise agreed in writing by the local planning authority, the dwelling hereby permitted shall not be occupied until a Final/Post Construction Code Certificate issued by an accreditation body confirming that the dwelling has achieved a Code for Sustainable Homes rating Code level 3 as a minimum has been submitted to and approved in writing by the local planning authority.
- 9) Access to the flat roof over the dwelling hereby permitted shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.
- 10) No development shall take place until a Waste Minimisation Statement, in accordance with Supplementary Planning Document 03: Construction and Demolition Waste, confirming how demolition and construction waste will be recovered and reused on site or at any other sites has been submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved details.
- 11) No cables, wires, aerials, pipework (except rainwater downpipes shown on the approved drawings) meter boxes, ventilation grilles or flues shall be fixed to or

penetrate any external elevation, other than those shown on the approved drawings, without the prior written consent of the local planning authority.