



Appeal Decision

Site visit made on 14 March 2016

by Megan Thomas BA(Hons) in Law, Barrister

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

Decision date: 22 April 2016

Appeal Ref: APP/Q1445/W/15/3139732 146 Islingword Road, Brighton BN2 9SH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Nigel Hughes against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/02270, dated 20 June 2015, was refused by notice dated 5 November 2015.
 - The application sought planning permission for the demolition of a single storey commercial building and its replacement with a domestic dwelling house without complying with a condition attached to planning permission Ref BH2013/03755, dated 28 January 2015.
 - The condition in dispute is no.2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan; 2227/13/01A; 2227/13/02A; and 2227/13/03A.
 - The reason given for the condition is: In the interests of good planning and to ensure a high standard of design.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of a single storey commercial building and its replacement with a domestic dwelling house at 146 Islingword Road, Brighton BN2 9SH in accordance with the application Ref BH2015/02270, dated 20 June 2015, without compliance with condition numbers 1 and 2 previously imposed on planning permission Ref BH2013/03755 dated 28 January 2015 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new conditions:
 - 1) The development hereby permitted shall begin not later than 28 January 2018.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan; 2227/13/01B; 2227/13/02B & 2227/13/03B.
 - 3) The roof area of the building hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the local planning authority.
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Procedural Matters

2. The appellant obtained planning permission on appeal for the demolition of a single storey commercial building and its replacement with a domestic dwelling house. The appeal decision was dated 28 January 2015. The permitted scheme included a pitched roof and a condition was attached to the planning permission which tied the development to the submitted plans.
3. The appellant seeks to build a similar scheme but with a flat roof behind a parapet wall and seeks to substitute new plans in the relevant condition. The proposed new plans are numbered as follows: 2227/13/01B; 2227/13/02B & 2227/13/03B.

Main Issue

4. The appeal site is within the Valley Gardens Conservation Area. The main issue in the appeal is whether the proposal would preserve or enhance the character or appearance of the Valley Gardens Conservation Area and its effect on the setting of the nearby listed buildings.

Reasons

5. The appeal site is a small parcel of land occupied by a single storey flat-roofed building which was once used for commercial purposes. It is currently vacant. It is situated on a gradient on the corner of Islingword Road and Hanover Mews. To its north west there is an electricity substation and then a small private parking area for the Percy and Wagner almshouses. The almshouses were built in about 1795 in an early but modest Gothic revival style. They are listed as grade II buildings and are rather different in scale and style to the buildings around them.
6. The Valley Gardens area lies immediately to the east of the Old Town and was not built to any planned layout nor in a common architectural style. The Conservation Area is made up of different terraces or groups of buildings as well as several larger individual buildings. It is linked by a large swathe of mainly public gardens forming a green valley.
7. In coming to my decision I have borne in mind the statutory duties on me found in s.66 and s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
8. The resulting development would comprise a three storey house with a flat roof hidden by a deep parapet. The overall height would be in the region of 9.5m. The building would have a vertical emphasis as its profile to Islingword Road would be narrow, but it would not be overly tall or incongruous as it would be seen in the context of a higher building uphill, to its south east, and in the context of the lower almshouses, downhill.
9. There are several different roof forms in the immediate area, some hybrid flat and pitched, some pitched, some with curved or straight parapets with low pitches behind. The flat roof and parapet on the proposed building would not be out of place in the Conservation Area. Most, if not all, views of it would take in a number of other roof forms including parapets or other flat roofs.

10. Owing to the slightly lower ground on which the almshouses sit in comparison with the appeal site, the front view of the houses is dominated by the crenelated parapet punctuated by taller chimneys. At the rear the pitch of the roof of the almshouses is more prominent but it is not deep nor is it a strongly defining feature of the dwellings. Coupled with the difference in heights, I do not consider that the proposed flat roof and parapet of the appeal building would diminish the significance of the almshouses or jar with their setting.
11. I conclude therefore that the proposal would preserve the character and appearance of the Valley Gardens Conservation Area and preserve the setting of the nearby listed buildings. It would not be in conflict with policies HE3 or HE6 of the Brighton & Hove Local Plan 2005 nor with policies CP15, CP14 or CP12 of the Brighton & Hove City Plan Part One (adopted 2016).

Conditions

12. As I have allowed the appeal, a new planning permission is created by this decision letter and it has required the amendment of condition 1 to the original planning permission in order that the time period in which the planning permission must be commenced is no longer than was allowed pursuant to the original permission. Therefore, condition 1 above requires that this planning permission shall be commenced not later than 28 January 2018.
13. This planning permission is also subject to the other conditions attached to the original planning permission so far as they are still subsisting and capable of taking effect. In order to protect the privacy of nearby dwellings and notwithstanding that there would be photovoltaic panels and an air source heat pump on the flat roof behind the parapet, I have attached a condition which prohibits the use of the flat roof as an amenity area.

Conclusion

14. Having taken into account all representations made, for the reasons above I allow the appeal.

Megan Thomas

INSPECTOR

