

Appeal Decision

Site visit made on 15 May 2017

by **Chris Forrett BSc(Hons) DipTP MRTPI**

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

Decision date: 21st June 2017

Appeal Ref: APP/Q1445/W/17/3168661

Brighton Dental Clinic, St. James Mansions, 16-18 Old Steine, Brighton BN1 1EN

- 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 Ilias Tzampazis of Brighton Dental Clinic Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH/2016/05421, dated 26 September 2016, was refused by notice dated 15 December 2016.
 - The development proposed is the installation of air-conditioning condenser unit and retrospective consent for exiting A/C unit on eastern (rear) elevation.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Ilias Tzampazis of Brighton Dental Clinic Ltd against Brighton & Hove City Council. This application is the subject of a separate decision.

Procedural Matter

3. In refusing planning permission the Council considered that insufficient information had been submitted to demonstrate that the proposed air conditioning unit would not result in amenity harm to the occupiers of nearby residential properties in terms of noise disturbance.
4. However, following the submission of a noise report with the appeal documentation, the Council have subsequently withdrawn this reason for refusal. Given the location of the site, and the content of the report, I have no reason to disagree with that view.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the area.

Reasons

6. The appeal site is located within the Valley Gardens Conservation Area (VGCA) and adjacent to the East Cliff Conservation Area (ECCA). The VGCA is generally a linear Conservation Area which includes the Palace Pier, Royal Pavilion, Victoria Gardens to The Level and includes a variety of building styles.
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The ECCA includes a large part of the sea frontage and numerous streets generally to the east of the appeal site.

7. The appeal property is an attractive five storey building situated on the southeast corner of Old Steine and St James's Street. To the other side and rear of the building is Steine Street. All aspects of the building directly front onto highways. To the rear of the site is 130 St James's Street which is a Grade II Listed Building.
8. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of No 130 and the character or appearance of the VGCA.
9. From the evidence before me, the existing air conditioning units (for the Sandwich bar and the Dentists) do not benefit from express planning permission. Furthermore, it is unclear whether these would be immune from enforcement action through the passage of time. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the Appellant to apply to have the matter determined under Section 191 of the Act. Any such application would be unaffected by my determination of this appeal.
10. Regardless of the above, from my site visit I saw that the existing air conditioning units detract from the attractive appearance of the existing building and the Conservation Areas. However, I acknowledge that the siting of them on the rear elevation does minimise the harm to the building.
11. The addition of a further air-conditioning condenser unit would inevitably give rise to additional harm to the appearance of the building and the Conservation Areas. The proposed unit would be significantly larger than the existing unit and given its visibility along Steine Street it would appear as an unacceptable addition to the host building.
12. Paragraph 134 of the National Planning Policy Framework (the Framework) states that where a development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
13. In this case, the Appellant has indicated that the business requires the existing air conditioning unit to operate, and that the new unit is also a requirement to allow the occupation of the basement as part of the dental practice. I acknowledge that a health care facility could be a public benefit, as is bringing into use an otherwise vacant part of the building.
14. However, whilst other options appear to have been explored, from the evidence before me this relates to the siting of external air conditioning units as opposed to other methods of providing air conditioning or cooling which don't require the provision of such external equipment.
15. I have also had regard to the presence of other air conditioning units and vents in the area, including those on Steine Street which have been drawn to my attention. However, I am not aware of the planning circumstances of these. Moreover, each application must be determined on its individual merits.

16. Taking all of these factors into account, whilst the harm to the significance of the heritage assets would be less than substantial, the public benefits are not sufficient to outweigh the harm I have identified.
17. Turning to the effect on the setting of 130 St James's Street, the air conditioning units would be/are located on the façade opposite the side elevation of No 130 across Steine Street. From my site visit I also noted other air conditioning units on the other side of No 130. The appeal proposal would not, in my view, having an adverse impact on the setting of No 130 given their location on the building and on the opposite side of Steine Street. Consequently, no harm would result to the setting of this Listed Building or any other nearby Listed Building. The proposal would therefore accord with Policy HE3 of the Brighton and Hove Local Plan (2005) (LP). However, this does not outweigh the harm I have found.
18. For the above reasons, the development would result in harm to the appearance of the host building, the VGCA and (to a lesser extent) the ECCA. Therefore, the proposal would be contrary to Policies QD14 and HE6 of the LP and Policy CP15 of the Brighton and Hove City Plan Part One (2016) (CP) which amongst other matters seek to secure high quality design and to preserve the character or appearance of Conservation Areas. The proposal would also conflict with the design and conservation principles of the National Planning Policy Framework.

Conclusion

19. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

