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## Appeal Decision

Site visit made on 29 November 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: 8<sup>th</sup> December 2017.

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**Appeal Ref: APP/Q1445/W/17/3182463**

**Grace and Compassions Benedictines St Marys House,  
38-39 Preston Park Avenue, Brighton BN1 6HG**

- 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 Sister Kathy Yeeles against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/00018, dated 4 January 2017, was refused by notice dated 9 May 2017.
  - The development proposed is a new single storey building of approximately 72m<sup>2</sup> incorporating meeting rooms, toilet and storage area.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether or not the proposal would preserve or enhance the character or appearance of the Preston Park Conservation Area.

### Reasons

3. As the appeal site lies within the Preston Park Conservation Area, I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that Area. The National Planning Policy Framework (the Framework) states that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. It also advises that any harm to a designated heritage which is less than substantial must be weighed against the public benefit of the proposal.
4. The Preston Park Conservation Area is a predominantly residential area immediately to the north and east of Preston Park. It is characterised by properties dating from the mid to late 19<sup>th</sup> century. The properties in Preston Park Avenue have a prestigious location overlooking the trees and lawns of the park. They are large two-storey buildings constructed of red bricks with common features such as square bays, first floor balconies and Dutch-gabled dormers.
5. No 38-39 is operating as a residential care home and has already been significantly extended at the rear. The land at the back of the home rises up on a series of terraces. There is a modest sized garden directly to the rear of the existing buildings. The appeal site is part of an awkwardly shaped area of

land which lies beyond the original rear boundary of No 39. It straddles an area to the rear of Nos 40 and 41 and appears to include what may originally have been part of the gardens of three properties in Beaconsfield Villas. The site is partially occupied by two-storey buildings, including a chapel, which surround a small courtyard. The remainder of the site is on higher ground and comprises a kitchen garden and a modestly sized area of lawn. This part of the site is accessed via a short flight of steps and through an historic wall that marks the original rear boundary of the site. It is within this area that permission is sought for the erection of a single storey building.

6. The erection of buildings on part of the appeal site and other development which is in the area immediately to the north, has taken place incrementally since the 1920s. It has introduced a degree of backland development which is not typical of the remainder of the Conservation Area. This development has eroded the more spacious, open area to the rear of the frontage properties. It has also resulted in the foreshortening of some of the long rear gardens which are a characteristic feature of this part of the Area.
7. The proposed single storey building would be located between two existing walls that mark changes in levels towards the rear of the site. Although it would be located on higher ground, its height and pitched roofs would ensure that it would be no taller than the adjacent existing two-storey buildings. It would not be visible from any public view point and only its roof would be visible from the rear of a few properties in Beaconsfield Villas.
8. Following refusal of an earlier scheme, Ref: BH2016/01883, the size of the proposal has been reduced and its proposed siting has been changed to address the Council's concerns about the loss of the historic wall that marks the original boundary of the site. Nevertheless, the building would have a substantial footprint that would occupy almost the entire area of lawn and kitchen garden. Only minimal gaps would be retained between the building and the walls that currently enclose this space. Furthermore, the rear elevation would not align with the rear of the adjacent building, causing a minor intrusion of development towards the rear of the properties in Beaconsfield Villas. The combined effects of its footprint and siting would result in an erosion of the open and undeveloped area at the rear of the site. This would adversely affect the openness of this part of the Conservation Area.
9. On my site visit I also saw a mature tree growing in a neighbouring garden, which was very close to the south-western corner of the site. This tree is protected by virtue of its location within the Conservation Area, but was not referred to within the application or shown on the submitted plan. Consequently, the possible effect of the proposal on this tree was not investigated and its protection was not specifically addressed as part of the scheme. I sought the views of the main parties on this matter and both indicated that it could be dealt with through the imposition of an appropriate condition. Such a condition would require an arboricultural report and a construction method statement. However, in the absence of this information and the Council's assessment of it, I have no evidence to satisfy me that any suggested protection measures would be effective and that the tree would be unharmed. In these circumstances it is necessary for me to adopt a precautionary approach as this mature tree, and others in the vicinity, make a significant contribution to the appearance of the Conservation Area.

10. Taking all these factors into account, I conclude that the proposal would harm the character and appearance of the immediate surroundings, and the character and appearance of the Preston Park Conservation Area as a whole would not be preserved. The proposal would therefore fail to comply with Policy CP15 of the Brighton and Hove City Plan Part 1 and saved Policies QD14 and HE6 of the Brighton and Hove Local Plan. These policies, amongst other things, require new development to respect its setting, especially in areas protected for their historic interest. Although, in terms of the Framework, this harm would be less than substantial, it is a matter to which I attach significant weight.
11. The application form indicated that the proposal would be for a B1 office use and the Council assessed the proposal on that basis. Other information supplied by the appellant suggested that the use would be more directly related to the activities of the existing nursing home, although few details were provided. However, even having sought additional information from the parties about possible conditions to regulate the use of the building, its intended use remained unclear to me. In view of this uncertainty, there were no identified public benefits that would outweigh the less than substantial harm to the Conservation Area.

### **Conclusion**

12. For this reason, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR

