



Appeal Decision

Site visit made on 17 December 2013

by **Philip Willmer BSc Dip Arch RIBA**

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

Decision date: 9 January 2014

Appeal Ref: APP/Q1445/A/13/2196557

Chapel Royal Vaults, North Street, Brighton, East Sussex, BN1 1EA.

- 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 Mrs Jo and Mr Marcus Thompson against the decision of Brighton and Hove City Council.
 - The application Ref BH2012/03647, dated 8 January 2013, was refused by notice dated 4 March 2013.
 - The development proposed is change of use to restaurant/café (use Class A3) with entrance alterations and associated internal works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Although not clear from the application form, it was confirmed at the site visit that the application was made in the joint names of Mrs Jo and Mr Marcus Thompson. I have amended the bullet point above accordingly.
3. The Chapel Royal Vaults are listed grade II* and located in the Valley Garden Conservation Area. I understand that an application for listed building consent for the works was submitted along with the application for planning permission now the subject of this appeal. However, the Council in conjunction with the Diocese of Chichester agreed that the vaults are the subject of Ecclesiastical Exemption and the application for listed building consent was therefore not registered. Nevertheless, in accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, I shall, along with my duties under section 72 of the Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area, have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Main Issue

4. I consider the main issue to be the effect of the proposed development on the special architectural and historic interest of Chapel Royal Vaults listed grade II*, the setting of the listed building and the character or appearance of the Valley Garden Conservation Area.
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Reasons

5. The property the subject of this appeal comprises the vaults of the Chapel Royal. I understand from the evidence that the proprietary chapel, now an Anglican Church, was first built between 1793 and 1795 but extensively rebuilt, together with the construction of the tower, between 1876 and 1896. The building, which comprises two principal elevations, is located on the corner of North Street and Prince's Place.
6. The property is listed grade II* and located in the Valley Garden Conservation Area. I understand that the vaults, which are not referred to in the list description of the building, have a separate freehold dating back to 1896 and have over time been put to a variety of non ecclesiastical uses, principally storage.
7. In my view, the special architectural and historic interest of the building relates to the history of the development of the Church and its vaults, the history of the separation of the vaults from the freehold of the Church and their subsequent use, the building's architectural design and detailing, and the general space around the Church which forms an important aspect of its setting.
8. The vaults are entered via a low arched entrance from Prince's Place. They have a part brick paved/concrete floor, brick/beach pebble perimeter walls and an open vaulted brick ceiling, being the expressed structure of the ground floor of the Church above. The overall space is divided into five principal bays by masonry walls. A mix of cast iron and timber columns support the vaulting over the larger central space. There is existing shelving to the perimeter walls. Although, some may well be original, particularly along the east and north walls, others, by reason of the use of block work and soft wood slats, are clearly a more modern intervention. A later small office and toilet have also been built in the entrance bay from the street.
9. From the Council's evidence I understand that, subject to the imposition of conditions in relation to operating the restaurant and hours of opening, it does not have an objection in principle to the proposed change of use to a restaurant/café (A3 Use Class). However, as identified by the Council, in this case the proposed change of use could not be achieved without significant alterations to both the interior and exterior of the building. I shall therefore now consider these matters in turn to assess their impact on both the listed building and the conservation area.
10. The Council states in its evidence that the existing access to the vaults is impractical and is an impediment to their re-use. It goes on to say that it considers the proposed access is the only feasible option for providing an acceptable entrance. Having regard to what I have seen and read as well as the desirability of bringing the vaults back into use, particularly if they would then be open to the public, I find no reason to reach a contrary view.
11. The excavation of the well in to which the external steps and lift would be installed would expose the outside face of the external wall of the building at this point. Although there is no firm evidence as to the construction and facing of the external walls below ground level, the Council is of the view that it is likely to be rough pebble flintwork. Based on my experience, I would accept that whatever the construction of the wall it is unlikely, as it would have been

designed to be buried, to have been constructed in quality face brickwork to match the envelope of the main building. The appellants propose applying a tile/brick slip over the existing structure to match the existing facework. Although the appellants have identified a matching brick, no detail of what is proposed, or how the tiles/slips or bricks would be applied having regard to the need, amongst other things, to address the surrounding surfaces, both jambs to the entrance door opening and the junction with the interior facework, has been provided.

12. To my mind, this element of the proposal is of considerable significance due to the prominence of the new entrance in the street scene. Taking this into account, along with the building's listed status and its location in the conservation area, I do not consider that this matter could be adequately addressed by condition. Accordingly, without a fully detailed proposal for any necessary works to face the wall to be exposed, I consider that the proposal as designed may cause harm to the special architectural and historic interest of the building and its setting as well as the character and appearance of the conservation area.
13. In order, amongst other things, to provide adequate headroom for the proposed use it is intended to excavate the floor by about 0.945 metres. After undertaking the necessary works, including damp proofing, a new floor some 0.450 metres lower than the existing would be formed. To avoid the perimeter walls being undermined by these works, rather than underpinning, a deep exposed structural plinth would be built around the internal perimeter of the external walls.
14. As a consequence of the construction of the plinth, I believe that the removal of the existing shelving system including the brick support would be necessary. This would result in a significant loss of historic fabric and the introduction of a highly visible new structural element. The appellants have not explained why a plinth detail is proposed as an alternative to traditional underpinning or other potentially less harmful solutions that may well be available. In my experience, for instance, traditional underpinning could be carried out in short staggered sections and therefore in all probability might well be achieved while retaining the historic shelving complete. Accordingly, I consider that the method of underpinning proposed would be harmful to the listed building, resulting in the loss of historic fabric and impacting on the architectural integrity of the interior of the vaults.
15. As a result of lowering the floor, the base of the existing timber and cast iron columns would need to be supported on new raised plinths. The use of short brick piers as shown would, to my mind, be a legitimate method which would also have the benefit of clearly indicating that the floor had been lowered as part of the change of the building to its new use. Accordingly, in respect of the structural columns, I consider that the lowering of the floor could be achieved without harm to either the historic fabric or the special interest of the building.
16. I do not necessarily consider that the internal excavation necessary to lower the floor would, per se, cause harm to the listed building. However, I do believe that the design as proposed would result in the loss of historic fabric and would thereby cause harm to the special architectural and historic interest of Chapel Royal Vaults.

17. It is intended to install a new ventilation system throughout the vaults. Subsequent to the determination of the planning application, a schematic proposal for the system has been provided upon which the Council has taken the opportunity to comment. The scheme design proposes exposed metal ducting fixed to the soffit of the vaulted floor.
18. The local planning authority has expressed the opinion 'that the quasi industrial appearance of the pipe-work of the ventilation system would not be appropriate for an ecclesiastical building' and, therefore, would imply that the proposed use is not 'consistent with the conservation' of the historic building. However, to my mind, having regard to the vaults and the church being separate freeholds, the previous history of non-ecclesiastical uses of the vaults, the opportunity afforded by the proposal to open the vaults to the public and the fact that as well as the ducting appearing as a contrasting feature it would maintain views of the existing structure behind, I consider that it would not in principle be harmful to the special architectural or historic interest of the building.
19. I note that the application drawings show each of the two windows located to either side of the new entrance door being reinstated. However, although details of any necessary grills have not been provided, the mechanical ventilation design drawing suggests that the air intake and extracts would be sited in place of the two windows. The introduction of ventilation grills in place of the windows may well, in my view, subject to their detailed design, appear as unwelcome additions in these locations that would serve to cause further harm to the appearance of the listed building, its setting and thereby the character or appearance of the conservation area.

Overall conclusion

20. Providing an acceptable engineering solution could be found, then I believe the floor could be lowered without resulting in harm to the building's significance. Further, in my judgement, the use of exposed metal ventilation ducting would not in itself cause harm to the listed building.
21. However, I consider that due to the uncertainty as to the re-facing of the existing external wall of the building when exposed by the formation of the new entrance, the proposed installation of intake and extract ducts in place of the windows to Prince's Place, the loss of historic fabric and the introduction of a new plinth as a result of lowering the floor, the proposed development would cause significant harm to the special architectural and historic interest and setting of the building and would fail to serve to preserve or enhance the character or appearance of the conservation area.
22. The National Planning Policy Framework (the Framework) requires great weight to be given to the conservation of designated heritage assets, which include conservation areas and listed buildings. It draws a distinction between substantial harm and less than substantial harm to such an asset. For the latter, which applies here, the test is that the harm should be weighed against public benefits, including securing the optimum viable use.
23. The change of use of the vaults to a restaurant/café would clearly provide some economic benefit and afford the public, albeit limited to customers, access to the vaults. Given the harm that has been identified I conclude that the public benefits would not outweigh this harm, or the conflict with the Framework and

saved Policy HE1 of the Brighton and Hove Local Plan as they relate to the duties imposed by sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to the preservation of the fabric and the setting of listed buildings, and the preservation or enhancement of the character or appearance of conservation areas.

Conclusions

24. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Philip Willmer

INSPECTOR