



Appeal Decision

Site visit made on 23 December 2008

by **S J Emerson BSc DipTP MRTPI**

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
2 January 2009

Appeal Ref: APP/Q1445/A/08/2081980

The Heart and Hand, 75 North Road, Brighton BN1 1YD.

- 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 Iain Exley against the decision of Brighton & Hove City Council.
- The application Ref BH2007/04583, dated 17 December 2007 was refused by notice dated 11 February 2008.
- The development proposed is 3 heat lamps on the North Road elevation.

Procedural matter

1. The heat lamps the subject of this appeal were erected prior to the application being submitted. The application is therefore retrospective and I have considered it as one made under Section 73(A) of the Act.

Decision

2. I allow the appeal, and grant planning permission for 3 heat lamps on the North Road elevation at The Heart and Hand, 75 North Road, Brighton in accordance with the terms of the application, Ref BH2007/04583, dated 17 December 2007, and the plans submitted with it.

Main issues

3. The main issues are:
 - (a) The effect on the character and appearance of the North Laine Conservation Area.
 - (b) Whether the proposal would represent a wasteful or inefficient use of energy.

Reasons

4. The Heart and Hand is a small Public House occupying a corner site within the densely built-up North Lanes. The surrounding streets are predominantly Victorian terraces. Some streets have a mix of specialist shops, cafes and bars and others are mainly residential. My impression is that the area has a lively, bustling character at most times of the day. I have not been provided with any detailed appraisal of what makes this conservation area special. I consider that its special qualities are primarily derived from its Victorian buildings (which vary in scale and design), combined with its mixed use character and individualistic touches to many buildings, such as bold colour schemes.

5. The ground floor facades of the appeal building are clad in green glazed tiles. There is an awning to the North Road elevation, a black carriage lamp on the corner of the building and several small signs fixed to the wall. The 3 heat lamps are just underneath the awning's fixings. The lamps look like large flood lights and have matt black surrounds. The awning largely hides the lamps from views along the street. This is the case even when the awning is closed as it has a fringe which hangs down partly over the lamps. When visible, I consider that the lamps are unremarkable, small scale features on the building's facade which make little difference to its appearance or character, partly because the awning has a much greater visual impact. As highlighted by the appellant, I saw similar heat lamps attached to several other buildings nearby, one of these buildings has permission for the lamps, the others do not.
6. In the context of the varied character of the conservations area and the inconsequential effect of the lamps on the appearance of the host building, I consider that the appeal proposal would not harm the character or appearance of the conservations area. Its special qualities would be preserved. There is no conflict with policy HE6 of the Brighton and Hove Local Plan 2005 to protect conservation areas.
7. The Council considers that the lamps represent an inefficient, unsustainable and wasteful use of limited energy resources, that their use is unnecessary and that there is conflict with policy SU2 of the local plan. The thrust of this policy is to ensure that all developments achieve a high standard of energy efficiency. The policy provides no indication that a judgment should be made about what the energy is being used for, only that it should be used efficiently. The appellant states that the selected lamps are the most energy efficient means of creating heat for people outside. The Council accepts this assertion. In my view, this is an important concession and makes the development comply with aim of policy SU2 since there is no more efficient way of achieving the intended objective of this development.
8. Outside heating is much less efficient than warming an enclosed and insulated space, but that is not a particularly helpful comparison in this case when the objective is specifically to provide some warmth to those who are outside, which in many cases will be smokers. Given the indisputable adverse health effects that arise from smoking, I do not give weight directly to making it more comfortable for people to smoke outside. But I do give some weight to the need for a business such as this to attract and retain customers and to the role of pubic houses for many people as a social venue. The appellant indicates that the use of the lamps is controlled by a time switch. Given the costs of energy, it is clearly in the appellant's interest to minimise their use.
9. On balance I consider that the proposal does not represent an inappropriately wasteful or inefficient use of energy.
10. No conditions have been suggested by the Council if I were to allow the appeal and I consider that none are necessary.

Simon Emerson

INSPECTOR