
Appeal Decision

Site visit made on 13 January 2016

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

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

Decision date: 11 February 2016

Appeal Ref: APP/Q1445/D/15/3136847 16 Westbourne Place, Hove BN3 4GN

- 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 Dan Lehmann against the decision of Brighton and Hove City Council.
 - The application Ref BH2015/00921, dated 16 March 2015, was refused by notice dated 10 August 2015.
 - The development proposed is demolition of part of existing workshop to rear and replacement with a new first floor garden living room, part grass, part hard landscaped roof terrace with lightwell and walk-on glass rooflight. Kitchen extended into existing courtyard with utility room to rear.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council's decision notice and the appeal form describe the development as: 'reconfiguration of property including demolition of part of existing workshop to rear and replacement with new first floor garden living room incorporating increased roof height, revised and extended roof terrace with glazed balustrade, ground floor rear extension and associated works'. However, I have used the description on the application form in determining the appeal.

Main Issues

3. The main issues are whether the proposal would:
 - a) preserve or enhance the character or appearance of the Sackville Conservation Area;
 - b) result in the unacceptable loss of premises capable of use for employment generation.

Reasons

Character and appearance

4. Westbourne Place lies within the Sackville Gardens Conservation Area. It is characterised by two-storey, terraced Victorian mews cottages. The houses are interspersed with workshop uses, some of which are to the rear and accessed through gated undercrofts beneath the first floors of the street front buildings.
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5. No 16 has a double frontage with a bay window and timber garage doors. I understand that the garage was originally a single room deep with a courtyard to the rear. Beyond this was a two-storey building, originally used as a stable and hayloft. Over the years the property has been subjected to a series of changes and the garage has been extended to incorporate part of the courtyard and the stable. The rear wall of the original garage was removed and a floor inserted above the courtyard to link the two buildings. This has created a large garage/workshop on the ground floor, which wraps around the house. Of the original courtyard, only a small trapezium-shaped area between the rear of the house and the garage remains. The hayloft is now a first floor workshop, to which a shed-like structure has been attached. The remainder of the first floor is a roof terrace, which is currently used as an outside amenity space.
6. The proposal is to partially demolish the rear workshop, whilst retaining the walls on the northern and southern sides of the building. It is then proposed to extend the ground floor of the house, effectively creating a narrow, single storey outrigger that would occupy the full depth of the plot. The section between the house and the two-storey element of the garage/workshop would have a flat roof. The remainder of the ground floor would be retained as a garage/workshop with the exception of a small rectangular open courtyard. This would be accessed via bi-fold doors from the dining room in the proposed extension. At first floor level the timber structure, described as a store, would be removed. It is proposed that a garden room occupying 60% of the width of the plot would replace the workshop. This would have a modern design. The remainder of the first floor would be formed into an enlarged roof terrace, part of which would be covered by louvred timbers to match the pitch of the proposed zinc roof of the garden room.
7. Government policy in respect of the historic environment is set out in the National Planning Policy Framework (the Framework). Paragraph 126 advises that historic assets are an irreplaceable resource that local authorities should conserve in a manner appropriate to their significance. Any harm that is less than substantial must be weighed against the public benefit of the proposal. Furthermore, proposals within conservation areas must meet the statutory test of preserving or enhancing the character or appearance of that area. Saved Policy HE6 of the Brighton & Hove Local Plan is broadly consistent with this approach.
8. The original layout of the site with an open courtyard between two distinct buildings has already been lost. The garage and workshop are linked together for the full depth of the premises on the southern side of the plot. The existing open courtyard area is an awkward trapezium shape that does not relate well to what remains of either of the original buildings. The proposed single-storey, flat roof rear extension would create a permanent connection between the house and the site of the original stable/hayloft. The enlarged house would therefore occupy the full depth of the plot and further reduce the size of the courtyard.
9. Open courtyards that occupy the areas between the front and rear buildings are one of the historic assets associated with this group of properties in Westbourne Place. However, using part of the existing garage to create a new courtyard would largely offset the loss of what remains of the original courtyard at No 16. The proposal would result in a more usable, rectangular-shaped space sited between the extension and the existing garage. Although this area would be small, I consider it would relate well to the extension with its large glazed bi-fold doors, enabling the area to appear more spacious and open. In addition, the proposed 'walk-on' rooflight in the ceiling of the extension would allow light to penetrate the area from above, thereby increasing this sense of openness.

10. There was no evidence before me to suggest that the existing layout should be preserved because of its significance as an historic asset. Furthermore, none of the proposed changes to the layout at ground floor level would be visible from the public realm or from the surrounding dwellings. I am therefore satisfied that this part of the proposal is acceptable and would not result in material harm to the Sackville Gardens Conservation Area.
11. The removal of the existing store attached to the front elevation of the workshop at first floor level would be a positive benefit of the scheme. This is an incongruous feature that currently masks the form of the original workshop and detracts from the appearance of the rear part of the terrace as a whole. The proposed replacement modern structure would replicate the pitched roof of the existing workshop and the similar structures associated with the neighbouring properties. The small increase in the height of the roof could be satisfactorily accommodated alongside the taller roof of the adjoining property, No 14. The use of timber louvred solar shading over the remaining width of the property would ensure that a continuous roof structure is provided along the terrace as a whole. I therefore concur with the Council that the contemporary design of the proposed garden room is acceptable.
12. At first floor level there is already a roof terrace, which is actively used as a private amenity space. The proposal would therefore not bring about a fundamental change to the use of this part of the site. However, the space would be enlarged with the inclusion of the open area beneath the timber louvred roof adjacent to the proposed garden room. The proposal would reduce the size of the gap above the courtyard and move this opening to a more central position within the amenity space. However, these changes would barely be visible from the neighbouring properties, partly because of the height of the shared boundary wall between Nos 16 and 18. The combined use of hard and soft surfaces would make the area a more attractive outdoor space. It therefore seems to me that the proposal is an imaginative way of making good use of a limited space whilst respecting the context.
13. Taking all these factors into consideration I conclude that the proposed extension would not be harmful to the character or appearance of the host property. I am therefore satisfied that the Sackville Gardens Conservation Area would be preserved. The proposal would accord with the aims and objectives of saved Policies HE6 and QD14 of the Brighton & Hove Local Plan, which seek high quality development that respects its setting, especially in areas protected for their historic interest. It would also comply with the Framework's requirements to conserve historic assets in a manner appropriate to their significance.

Loss of small premises for employment use

14. There is a disagreement between the parties as to the lawful use of the appeal site, which arises from the site's planning history. In 1999 permission for the partial demolition of the rear workshop and erection of a new house on the site was refused¹. One of the reasons given by the Council for refusing that application was the loss of a B1 light industrial unit. Permission for the partial demolition of the rear workshop and conversion into a granny flat was granted in 2000². However, this was not implemented and is therefore not relevant to my considerations in relation to this appeal. There have been no other planning applications to formally

¹ BH1999/02005/FP

² BH2000/02060/FP

approve a change of use of the part of the site from B1 to residential (C3). The appellant contends that the whole site is now in residential use, as he has owned and occupied it since 2009, i.e. more than four years. However, from the evidence presented and what I saw on my site visit, the garage/workshop continues to be used as a garage/workshop, for the undertaking of the appellant's hobby, repairing of historic motor vehicles.

15. Notwithstanding the dispute about the current lawful use of the site, the proposal before me would materially reduce the size of the area potentially available for employment use. Nevertheless, a substantial area of the garage would be retained and this could be of a sufficient size to provide a small business unit. Whilst it might be the appellant's intention to continue to make use of the garage for his hobby, there would be nothing to prevent these, or similar activities, being undertaken as a part of a business on this site in the future.
16. However, it seems to me that irrespective of the size of the retained garage, in practical terms, the proposed layout would result in this area becoming ancillary to the dwelling. As a consequence, the proposal would effectively result in the employment unit as whole being lost. Saved Policy EM6 of the Brighton & Hove Local Plan specifically supports the retention of small industrial and business units in order to encourage new employment enterprises. The difficulty of identifying new sites for such uses is highlighted in the plan, providing a sound reason for retaining existing sites where possible. The policy sets out a series of criteria, which need to be met for a change of use to be considered acceptable. No evidence was presented with the appeal to demonstrate that any of these criteria had been met.
17. I therefore conclude that the proposal would result in the unacceptable loss of premises that could be capable of use for employment generation. The scheme would be contrary to the aims and objectives of saved Policy EM6 of the Local Plan.

Conclusion

18. I have concluded that the proposal would preserve the character and appearance of the Sackville Gardens Conservation Area and is acceptable in this regard. However, I have found that the proposal would result in the unacceptable loss of premises capable of use for employment generation and for this reason, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR