



## Appeal Decision

Site visit made on 21 July 2008

by **V F Ammoun** BSc DipTP MRTPI FRGS

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

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Decision date:  
5 August 2008

**Appeal Ref: APP/Q1445/A/08/2071424**

**6 Pool Valley, Brighton, BN1 1NJ**

- 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 Nicola King against the decision of Brighton & Hove City Council.
- The application Ref BH2007/02759, dated 17 July 2007, was refused by notice dated 24 September 2007.
- The proposal is *modification to shop front to provide separate entrance to flat*.

**Decision: The appeal is dismissed.**

### Planning Policy and Main issues

1. The site is within the Old Town Conservation Area where well established policies of the Development Plan reflect the statutory requirement that special attention be given to the need to preserve or enhance the character or appearance of the area. Shopfront supplementary planning guidance dated 2005 in part states that consent will not be granted for the removal of an original or historic shop front. A 1979 Old Town Conservation Area assessment/guidance document states in part that residential uses should be encouraged, and also refers to the problem of upper floors remaining unused and seeks to encourage their appropriate use. The 2005 Local Plan contains a policy HO8 "Retaining Housing" which the Appellant considers significant in its entirety, and the Plan refers to the need for housing and small dwellings.
2. No.6 is a shop at ground floor level with two floors above that have been rated as in residential use. Both shop and maisonette are stated to have been vacant since 2006. Access to the maisonette is through the shop. From my inspection of the site and area and consideration of the representations made I have concluded that the main issues in this case are whether the proposed shopfront modification would preserve or enhance the character or appearance of the Conservation Area, and if not, whether the failure to do so would be outweighed by improved access to the upper floors of the building.

### Reasons

3. The present shopfront has a centrally located door recess, and a shop window on either side. The abutting shop fronts on either side at Nos. 5 and 7 have the same pattern of central entrance and flanking windows. Nos.5, 6 and 7 also have near identical bay windows at first and second floors, strongly suggesting that the three properties or at least the front elevations thereof were built to a common design. It also follows that the shopfronts at Nos.5, 6 and 7 are the original ones, in design if not in all physical materials. The appeal proposal would relocate a new recessed entrance to one side of the frontage, and the

two shop windows would be replaced by a single shop window to one side of the new door. It follows that even though the fascia and a partially reconstructed stall riser would remain, and appropriate materials be used throughout, the original shopfront design would be lost. This would be contrary to the 2005 guidance. The significance of retaining the original form of shop front in this case is reinforced by it being part of a group of three properties that not only have the same original shopfronts but also have original and matching first and second floor elevations above. I consider that the proposal would result in a loss of symmetry and historic form to the building Nos. 5-7.

4. There are examples of a door to upper floors being provided to one side of a shop window within Brighton town centre and in Pool Valley on either side of the block Nos. 5 to 7. What is at issue in the present case, however, is not so much the merit of the proposed shopfront considered in isolation, as the fact that it involves the loss of the original design of shopfront and block.
5. The south side of the street is a blank rear wall of a cinema. This directly reflects a feature mentioned in the 1979 document, of the contrast between the characteristic buildings for the most part of domestic scale with the grander, more obviously organised scale of building at the periphery. The north side of the street including the appeal premises has the characteristic domestic scale and form, so this part of Pool Valley is a point of entry/transition between the bus station and the main part of the Conservation Area to the west. I thus do not attach particular weight to the presence of a contrasting built form opposite the appeal site. I have concluded on the first issue that the proposed change would cause harm to rather than preserve or enhance the character or appearance of the Conservation Area. I therefore turn to the second issue.
6. The Appellant considers that without a separate entrance, a business use of the upper floors will be necessary, contrary to Council policy to retain smaller dwellings. I note that policy HO8 includes as one of the exceptional circumstances likely to support a loss of a residential use where "*a separate access to the residential accommodation is impracticable;*" It follows that the Council recognises that dwellings need separate accesses, and that housing retention policies need not prevail in such cases. There is an acknowledged link between viable uses and successful conservation and property maintenance, but there are no figures before me to indicate that the appeal premises would be non-viable if the proposed separate entrance were not provided, either in respect of retention of a dwelling lacking such access, or if the whole building were put to a non-residential use in line with policy HO8.
7. In all these circumstances I have concluded on the second issue that the harm to the Conservation Area would not be outweighed by the improved access to the upper floors of the building. Having regard to the weight given to the protection of Conservation Areas both in local and national policy and legislation, I conclude that the appeal should fail.

*V F Ammoun*

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