



Appeal Decisions

Site visit made on 4 November 2008

by **John Papworth** DipArch(Glos) RIBA

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

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Decision date:
6 November 2008

Appeal A: APP/Q1445/E/08/2082294

87 St James Street, Brighton BN2 1TP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Sawadee Thai Restaurant against the decision of Brighton & Hove City Council.
- The application Ref BH2008/00436, dated 9 February 2008, was refused by the Council by notice dated 7 April 2008.
- The works proposed are kitchen extract flue.

Appeal B: APP/Q1445/A/08/2082293

87 St James Street, Brighton BN2 1TP

- 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 Sawadee Thai Restaurant against the decision of Brighton & Hove City Council.
- The application Ref BH2008/00437, dated 9 February 2008, was refused by the Council by notice dated 7 April 2008.
- The development proposed is kitchen extract flue.

Decision Appeal A

1. I allow the appeal, and grant listed building consent for kitchen extract flue at 87 St James Street, Brighton BN2 1TP in accordance with the terms of the application Ref BH2008/00436, dated 9 February 2008 and the plans submitted with it, subject to the following conditions:
 - 1) The works hereby authorised shall begin not later than three years from the date of this consent.
 - 2) Before the commencement of the works, details of the appearance, surface finish and fixing methods of the proposed extraction fan, filtration system, any silencers and anti-vibration mounts together with any vents and flues or other extract equipment, shall be submitted to and approved in writing by the Local Planning Authority. The installation shall be carried out and maintained in strict accordance with the approved details.
 - 3) The installation shall be retained for as long as the use of the premises remains as a restaurant or similar requiring kitchen extract equipment. The installation shall be removed and the fabric and finishes of the building made good within three months of any change of use away from restaurant or similar use to one not requiring kitchen extract equipment, unless otherwise agreed by the Local Planning Authority.

Decision Appeal B

2. I allow the appeal, and grant planning permission for kitchen extract flue at 87 St James Street, Brighton BN2 1TP in accordance with the terms of the application, Ref BH2008/00437, dated 9 February 2008, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Before the commencement of the development, details of the type and specification of the proposed extraction fan, filtration system, any silencers and anti-vibration mounts together with any vents and flues or other extract equipment, with details of sound attenuation and noise levels and a written maintenance regime shall be submitted to and approved in writing by the Local Planning Authority. Details shall also be submitted of any interim arrangements for extraction during the removal of the old system and the installation of the new one. The installation shall be carried out and be operated and maintained in strict accordance with the approved details and the equipment shall not be brought into use until the approved works are completed in their entirety unless otherwise agreed as part of the interim measures.
 - 3) Before the commencement of the development, details of the appearance and surface finish of the ducting shall be submitted to and approved by the Local Planning Authority and the development shall be carried out as the approved details.
 - 4) The installation shall be retained for as long as the use of the premises remains as a restaurant or similar requiring kitchen extract equipment. The installation shall be removed and the fabric and finishes of the building made good within three months of any change of use away from restaurant or similar use to one not requiring kitchen extract equipment, unless otherwise agreed by the Local Planning Authority.

Reasons

3. The appeal property is listed Grade II and the main issue is the effect of the proposals on the architectural or historic interest of the building and its setting within the East Cliff Conservation Area. I have also received a comment from a neighbouring resident as to the ineffective nature of the present extract system which appears to vent into a mostly enclosed courtyard, open only to the air above and situated at basement level.
4. Planning Policy Guidance Note 15 "*Planning and the Historic Environment*" (PPG15 1994) provides advice on listed buildings and paragraph 3.8 states that generally the best way of securing the upkeep of historic buildings is to keep them in active use. The guidance further requires at paragraph 3.4 that applicants should be able to justify their proposals and show why works that affect the character of the building are desirable or necessary. Local Plan Policies HE1 and HE6 have similar aims to the statutory requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 with regard to listed buildings and conservation areas.

5. It appears to me that the restaurant is attractive and makes good use of the corner site on this busy commercial street. There are signs of less attractive uses of buildings in the street and I attach significant weight to the continued beneficial use of the listed building. I am of the view that in order to continue operating in these premises the restaurant needs to find a way of improving the kitchen ventilation. I understand that a second scheme having less effect on the listed building found favour with the conservation officer but not with the environmental health officer. As the appellant states, they are now in an awkward position of having an enforcement notice served under the Environmental Protection Act 1990, but have been unable to satisfy the conservation requirements.
6. I am clear as to the main nearby locations from where the extract terminal would be seen above the eaves as proposed, that being in parts of Margaret Street and Camelford Street, and approaching from the north on High Street near the Ranelagh public house. I consider those views fleeting and the terminal would be among similar works, chimney pots, fire escapes and the other paraphernalia of a busy commercial area. I do not consider the addition of this item to cause real harm to the character or appearance of the conservation area or the setting of the listed building.
7. Conditions could ensure control of colour, material and particularly the performance of the extract, a matter which I consider weighs in favour of allowing the proposal in this case. On this last point, it is my view that the ventilation equipment details should include maintenance provision to ensure continued performance as designed, to avoid harm developing through worn parts and inefficient or dirty filtration. Also, in view of the balance of considerations that lead to me decision, I consider it reasonable to require the installation to be removed if the use of the premises changes away from one requiring kitchen extract equipment.
8. Listed building considerations are not restricted to only those things that the public may see. However, the proposed extract would make use of the existing opening at basement level, and fixing to the face of the wall could be minimal and covered by condition. I conclude that the proposed extract system would have only a limited effect on the interest of the listed building or its setting in the wider conservation area, that the continued use of the building is beneficial and appropriate and that together with the benefits to the environment of neighbouring occupiers, the benefits justify the proposals and outweigh the limited effects, in line with advice in PPG15, and accord with the aims of Local Plan policies and the 1990 Act. For the reasons given above I conclude that the appeal should succeed.

S J Papworth

INSPECTOR
