



Appeal Decision

Site visit made on 21 January 2013

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 25 January 2013

Appeal Ref: APP/Q1445/A/12/2181583

1st and 2nd Floor Maisonette, 6 Trafalgar Street, Brighton BN1 4EQ

- 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 Andrew Dean against the decision of Brighton & Hove City Council.
 - The application Ref BH2012/01501, dated 8 May 2012, was refused by the Council by notice dated 24 July 2012.
 - The development proposed is replacement of existing rear windows with UPVC sash windows.
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Decision

1. I allow the appeal and grant planning permission for replacement of existing rear windows with UPVC sash windows at 1st and 2nd Floor Maisonette, 6 Trafalgar Street, Brighton BN1 4EQ in accordance with the terms of the application, Ref BH2012/01501, dated 8 May 2012, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following unnumbered approved plans; 'Existing Details, First and second Floor maisonette at 6 Trafalgar Street Brighton 1:50 and 1:100 July 2011 A2 sized drawing' and 'Proposed Details, First and second Floor maisonette at 6 Trafalgar Street Brighton 1:50 and 1:100 May 2012 A3 sized drawing'.
 - 3) No development shall take place until 1:20 elevations and 1:1 sections of the proposed windows have been submitted to and approved in writing by the Local Planning Authority. The windows shall be constructed and installed in accordance with the approved details and shall be retained as such thereafter.

Application for Costs

2. An application for costs was made by Mr Andrew Dean against Brighton & Hove City Council. This application is the subject of a separate Decision.

Reasons

3. The address used above is that contained in the Council's Reason for Refusal and on the drawings, and the premises are within the North Laine Conservation Area with the rear elevation considered to be within the setting of listed buildings in Pelham Square. The main issue is the effect of the proposal on the

character and appearance of the area and the setting of those listed buildings. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Section 66(1) of the same Act requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Policies HE3 and HE6 of the Local Plan seek the same ends and are generally consistent with Section 12 of the National Planning Policy Framework. Policy QD14 seeks alterations that are well designed and detailed in relation to the property and use materials sympathetic to the parent building.

4. Supplementary Planning Document SPD09 '*Architectural Features*' contains at Section F guidance on windows. The Policy on Conservation Areas on page 30 states that when replacing windows on street elevations the original material should be matched. A later paragraph 2.20 says that in conservation areas double glazed windows will be permitted but, on elevations that face onto a street or public open space, the original window's style, pattern frame and glazing bar widths must be closely matched. Paragraph 2.21 states that UPVC replacement windows are unlikely to be permitted on an elevation in a conservation area visible from the street or public open space. Paragraph 2.22 goes into further detail on the use of UPVC and accepts that its use may be appropriate in some situations, subject to the detailing, but likely to be limited in conservation areas to the rear elevation. This paragraph does not appear to differentiate between visible and non-visible rear elevations, but can be taken to give more reasoning for the judgement required in paragraph 2.21 on when an installation is unlikely to be permitted and therefore when it is able to be permitted.
5. From all of this, and the site inspection, it appears that of the four windows shown on the drawing, only the two on the rear of the projection can be seen from public viewpoints and should be considered under paragraph 2.21. The other two windows cannot be seen from public viewpoints, fail to be considered under paragraph 2.22, and have no effect on the character and appearance of the conservation area. Their effect on the setting of the listed building is limited as they face a flank elevation and for those reasons, and having regard to the nature of the proposed window, these two windows should be permitted.
6. The two windows that are visible, and as presently installed, fail to replicate the sash overhang and other attributes that should be expected of a window in this location. These shortcomings are particularly evident due to the oblique view available. These inappropriate windows were the subject of a retrospective application (Ref; BH2011/03630) which appears to cover all four windows. In that sense, the similarity between the present position and the Inspector's comment in the dismissed Section 78 Appeal referred to by the Council on Western Road (Ref; APP/Q1445/A/12/2171613) is clear.
7. However, the present appeal proposes the removal of those inappropriate replacements in favour of Rehau Heritage range vertical sliding sashes that would replicate the overhang of the upper sash over the lower one and would have more appropriate proportions to the frames. Two remaining matters need to be considered; the use of UPVC and the double glazing method.
8. On the first, and as set out above, paragraph 2.21's use of the word 'unlikely' allows for judgement and in this case, the location some way back in a recess

alongside number 1 Pelham Square together with the ability of the Rehau Heritage window to replicate, as near as is necessary here, the proportions and appearance of a traditional sash window, indicates that the use of UPVC would preserve the character and appearance of the conservation area and the setting of the listed buildings in the particular circumstances of this proposal.

9. On the second, it is the oblique view that could display the depth of the sealed units and their spacers, but the distance involved in that view and the play of reflection in such oblique views would sufficiently reduce the adverse effect in this particular situation. Consideration of the information supplied on the Rehau Heritage windows adds weight to the suitability of these windows here. In addition to conditions stating the drawing numbers, for the avoidance of doubt and proper planning, a condition should be attached providing for large scale details to be submitted to allow the Council to ensure that the correct glazing beads and sash profiles are installed.
10. In conclusion, the Supplementary Planning Document allows for judgements to be made in the circumstances of individual cases that UPVC and double glazed units can be used in conservation areas. With a condition to ensure an acceptable product, that judgement is that the proposed replacement windows are acceptable in this location. Hence the proposal accords with Local Plan Policies HE3, HE6 and QD14, and with advice in local and national guidance, as well as satisfying the statutory tests in the 1990 Act. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

