



## Appeal Decision

Site visit made on 12 November 2013

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

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

Decision date: 14 November 2013

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**Appeal Ref: APP/Q1445/D/13/2206287**

**4 Powis Grove, Brighton, BN1 3HF**

- 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 Matthew Hyde against the decision of Brighton & Hove City Council.
  - The application Ref BH2013/02227 was refused by notice dated 9 September 2013.
  - The development proposed is alterations to front entrance and gate.
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### Decision

1. The appeal is dismissed.

### Preliminary matters

2. The original application was for planning permission and conservation area consent for demolition in a conservation area. I note that the Council advised the appellant that conservation area consent was not required but sought written permission to amend the application to 'show just the householder consent'. It would appear that this was provided and the Council determined the proposal as an application for planning permission. The scheme was more fully described as 'relocation and widening of front entrance to facilitate vehicle crossover, formation of hard standing and dropped kerb' on both the decision notice and the appeal form.
3. The appellant has raised concerns about the process and the Council's handling of the application, particularly as the wall is not listed and he was not aware of any special articles (such as Article 4) that applied in this case. Whilst I appreciate the appellant's concerns, it is open to him to challenge the Council's interpretation of the legislation and to apply for a Certificate of Lawfulness of Development under Section 192 of the Town and Country Planning Act 1990, as amended. However, these are not matters before me in the context of a Section 78 appeal, which is confined to a consideration of the planning merits of the scheme as described and determined by the Council. Similarly, suggestions for amending the scheme to overcome the Council's objections are not for me to consider as part of this appeal. My role is to determine the appeal in the light of the evidence as presented and current planning policies.

### Main issue

4. The main issue is whether the alterations to the front entrance would preserve or enhance the Montpelier and Clifton Hill Conservation Area.

## Reasons

5. Powis Grove lies immediately to the east of Powis Square within the Montpelier and Clifton Hill Conservation Area, which is characterised by mid-Victorian high quality housing of squares, crescents and terraces of pale painted stucco. This favoured area contains a wealth of listed buildings, some pleasant open spaces and a varied and highly attractive townscape. Powis Grove comprises mixed development of detached and semi-detached two and three-storey houses. The buildings are set back from the road and substantial brick and flint walls interspersed with pillars enclose most of the front gardens. These boundary walls are an important unifying feature of this part of the conservation area, as they are in the surrounding streets.
6. Nos 4 and 5 are detached villas of similar scale and design. In 2004 an opening in the wall at No 5 was approved to enable part of the front garden to be used as hardstanding for a vehicle. The appeal proposal seeks to provide a similar facility for No 4 by partly demolishing and re-building the boundary wall to form a 3.5m wide opening towards the right hand side of the frontage. This larger gap would replace the smaller pedestrian entrance that already has planning permission, Ref: BH2012/00194. Some material would then be removed from the front garden in order to enable the provision of an area of hardstanding.
7. Government policy in respect of the historic environment is set out in the National Planning Policy Framework. The Framework recognises that historic assets are an irreplaceable resource that local authorities should conserve in a manner appropriate to their significance. Any harm, which is less than substantial, must be weighed against the public benefit of the proposal. The Council's Local Plan also places great emphasis on preserving and enhancing the distinctive features of the city's many conservation areas. This is supported by a Supplementary Planning Document 9: *Architectural Features*, adopted in 2009 (SPD), which sets out detailed advice and guidance about the retention, restoration and enhancement of Brighton and Hove's historic environment. This approach is consistent with national policy and the SPD is therefore a material consideration to which I can attribute significant weight.
8. The SPD has a clear policy stating that permission will not be granted for the partial demolition of a boundary wall in a conservation area. This is because the removal of walls disrupts the rhythm of features that are important within the street scene and can significantly alter the sense of enclosure of the street. Such changes, combined with the loss of vegetation and front gardens and the creation of hard surfaces on which to park vehicles, can be harmful both visually and environmentally. From my observations on the site visit I consider that the boundary walls are a significant heritage asset within the Montpelier and Clifton Hill Conservation Area. They are therefore worthy of retention and protection in order to preserve the character and appearance of the area.
9. In this context the creation of a wider opening at No 4 would significantly disrupt a section of a wall that is one of the distinctive features of this short street. It would reduce the sense of enclosure and privacy that currently characterises this Victorian villa. The additional width of the opening would make it materially different to the more modest proposal for a pedestrian entrance and it would also result in the loss of a brick pier. Whilst the harm to an individual section of wall may appear to be less than substantial, I consider

that the incremental and cumulative loss of these original features adversely affects the conservation area and the heritage asset as a whole.

10. As heritage assets are irreplaceable, any harm requires clear and convincing justification. I appreciate that the appellants have undertaken improvements to their home, which have enhanced the appearance of the building. These are to be welcomed. However, there would be no public benefit arising from the removal of the wall that could be weighed against the harm that would be caused to the appearance of the street scene, particularly as the house would retain access to a garage from Clifton Hill.
11. On my site visit I saw that several other houses in Powis Grove have garages and entrance driveways. However, some appear to have been in place for many years; others served to illustrate the visual harm that can arise from the removal of the boundary walls. Whilst I note that the highway authority did not raise an objection to the creation of an access, this assessment would have been based on a consideration of the safety aspects of the scheme, rather than its visual appearance. It does not diminish the harm that I have identified to the conservation area.
12. I therefore conclude that the proposal to relocate and widen the front entrance at No 4 would be harmful to the Montpelier Road and Clifton Hill Conservation Area, which would be neither preserved nor enhanced. The proposal would be contrary to saved Policies QD2, QD14 and HE6 of the Brighton & Hove Local Plan, all of which require high quality design and detailing, that enhances the positive qualities of the local neighbourhood, especially in areas protected for their historic interest. It would also fail to comply with the more detailed advice and guidance of SPD9. The core principle of the Framework to conserve heritage assets in a manner appropriate to their significance adds weight to my conclusion.
13. I appreciate that the appellant feels disadvantaged because other properties have implemented similar changes in the past. However, this is not a justification for permitting alterations that I have found to be harmful when assessed against current planning policies.
14. I therefore find nothing to alter my conclusion that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR