
Appeal Decisions

Site visit made on 7 April 2014

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 11 April 2014

Appeal A: APP/Q1445/A/13/2204282

Basement Flat, 48A Sussex Square, Brighton, East Sussex BN2 1GE

- 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 Ms Kate Hunt against the decision of Brighton & Hove City Council.
 - The application Ref BH2013/00797, dated 10 March 2013, was refused by notice dated 21 May 2013.
 - The development proposed is alterations to layout and replacement of doors and windows (retrospective).
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Appeal B: APP/Q1445/E/13/2203628

Basement Flat, 48A Sussex Square, Brighton, East Sussex BN2 1GE

- 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 Ms Kate Hunt against the decision of Brighton & Hove City Council.
 - The application Ref BH2013/00798, dated 10 March 2013, was refused by notice dated 21 May 2013.
 - The works proposed are alterations to layout and replacement of external doors and windows (retrospective) .
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Decisions

1. I dismiss both appeals.

Reasons

2. Number 48 is a listed building and lies within the Kemp Town Conservation Area. The main issue in these appeals is the effect of the works on the architectural or historic interest of the listed building and its setting. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Local Plan Policy HE1 seeks the preservation of listed buildings and their fabric and Policy HE6 concerns development in conservation areas. Supplementary Planning Document on architectural features makes clear that windows are a crucial element of historic streetscapes and their historic significance should be retained.

3. The National Planning Policy Framework sets out the considerations with regard to heritage assets in chapter 12 where paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
4. The Government launched web based Planning Practice Guidance on 6 March 2014, after the receipt of representations to this appeal. The content of the Guidance has been considered, but in light of the facts of this case that content does not alter the conclusions reached.
5. There are two windows that are the subject of the appeal and the appellant refers to two previous applications being approved subject to details being provided, which she discovered had not been supplied. The Officer's Report makes clear that had the design of the two windows been submitted first, changes would have been advised.
6. Looking first at the window in elevation A, the joinery of the sashes and the method of glazing has led to an over-chunky appearance and the method of fixing and sliding the sashes is historically incorrect and inelegant. These shortcomings are plainly seen as part of the appreciation of the front elevation of the building above and the uniform architectural design of the terrace. Whilst seemingly a small difference relative to the scale of the terrace, the effect is harmful and represents an incremental erosion of the interest of the listed building and the conservation area as a whole.
7. To the rear it is accepted that the window would not be seen in public views and therefore there is no effect on the conservation area. However, the preservation of listed buildings is not restricted to only that which can be seen by the public; they are to be preserved for their architectural or historic interest in any event. The arrangement of the beading of the individual glass panes differs from that at the front, being moulded inside and out, but is inappropriate to this small pane window, as is the use of horns under the upper sash. As with that to the front, the hanging arrangement and materials used to house the sashes is not historically correct.
8. Both windows cause harm to the significance of the listed building and in addition the one to the front harms the character and appearance of the conservation area, and hence the statutory tests set out earlier are not satisfied. The works do not accord with the aims of the Local Plan Policies as set out and the requirement in paragraph 132 of the Framework would not be met.
9. The level of harm is nevertheless considered to be 'less than substantial', a distinction required between paragraphs 133 and 134 of the National Planning Policy Framework. Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The Guidance contains advice on considering the levels of harm.
10. The appellant has put forward an explanation of the situation, and the fact that she was not aware on purchasing the property that the pre-condition had not been discharged; however, the fact remains that the windows in place are unauthorised. Security is also cited as a benefit of the more robust joinery

sections, but important as that consideration must be to the appellant, as she details her personal situation and a previous attempted intrusion, that must be balanced against the statutory duties to preserve listed buildings and the great weight that must be attached to those duties. There are more acceptable ways of gaining security.

11. The harm to the listed building and its setting, and to the character and appearance of the conservation area is not outweighed by the benefits, as sought by the Framework. As a result, the works are unjustified and are unacceptable in their effect. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR