
Appeal Decision

Site visit made on 17 March 2015

by **R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL**

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

Decision date: 11 May 2015

Appeal Reference: APP/Q1445/F/14/2217726

66 Preston Street, Brighton BN1 2HE

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991
- The appeal is made by Mr C Bloomfield (Indigo Leisure Limited) against a listed building enforcement notice issued by Brighton & Hove City Council.
- The Council's reference is 2013/0008.
- The notice was issued on 18 March 2014.
- The contravention of listed building control as alleged in the notice may be summarised as the execution of various works in the rear garden of the premises. The full description, taken from the Listed Building Enforcement Notice, is included in the Schedules to this Decision.
- The requirements of the notice may be summarised as the reinstatement of the rear garden of the premises. The full requirements, taken from the Listed Building Enforcement Notice, are included in the Schedules to this Decision.
- The period for compliance with the requirements was stated on the Notice as two months after the notice takes effect.
- The appeal is proceeding on the ground set out in section 39(1)(e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Summary of decision: The Appeal is dismissed and the enforcement notice is upheld.

The Appeal Building and its Surroundings

1. Number 66 Preston Street was originally a terraced house, subsequently converted to a public house ('The Royal Sovereign'), dating mainly from the early nineteenth century, with a later addition to the south. It is faced with stucco under slate roofs and designed in a classical style. It amounts to a significant feature in the streetscene in Preston Road and is listed (Grade II) as a building of special architectural or historic interest.
 2. The appeal building has long been in use as a public house and it has the benefit of extensive bar areas. At the rear, there is a small enclosed garden area that provides additional space for customers, where various works have been carried out that are the subject of this appeal.
 3. The site lies at the centre of Brighton and the surrounding area is historic in character, in the Regency Square Conservation Area. It is a bustling location, with many leisure outlets in the vicinity, including bars and restaurants, and
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busy shopping frontages in Western Street, a short way to the north. Various buildings in Preston Street are historic in character.

The Appeal on ground (e)

4. The appeal on ground (e) is submitted on the ground "*that listed building consent ought to be granted for the works*".
5. It is necessary in determining the appeal, therefore, to have regard to Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which imposes an obligation on those considering whether to grant listed building consent for any works to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas affected by development proposals and, as has been noted, this listed building is set within the Regency Square Conservation Area.
6. That statutory framework is reinforced by the 'National Planning Policy Framework', especially at Section 12, which emphasises the importance of conserving and enhancing the historic environment, though it also points out the desirability of putting a heritage asset to its "optimum viable use".
7. Policies in the Development Plan also reinforce the underlying principles that are established in the primary legislation and the 'National Planning Policy Framework', though they do not have the same statutory force in the context of this appeal as they would in relation to an application or appeal for planning permission. Notably, Policies HE1, HE3, HE4 and HE6 of the 'Brighton and Hove Local Plan' are specifically aimed at protecting the historic heritage.
8. The works that have been carried out include a door or gate that leads from the garden to Regency Mews at the rear of the building. The Enforcement Notice requires the door to be painted black and it has been acknowledged that this would be appropriate. Subject to that improvement, in accordance with the Notice, the door or gate would be acceptable.
9. Other works are more contentious, however, since, within the rear garden, a set of structures have been erected to accommodate customers. The most dominant of the new features is a series of shelters constructed of timber framing and covered with galvanized corrugated aluminium sheet roofing. Timber benches and tables have been installed underneath, which are attached to timber decking.
10. The structures are crude and not in keeping with the listed building in terms of their detailed design and appearance. They are dominant in their immediate surroundings and, in particular, the chunky timber structures and modern roofing material are alien in character to the building and clearly detract from its appearance. The timber fences that now enclose the garden perimeter are also dominant in their context and alien to the more restrained architecture of the listed building.

11. While it is true that the roof covering could be replaced, the basic character of the new structures could not be changed by simple modifications or by colour change. Thus, the harm done by the unauthorised structures can be overcome only by their removal.
12. Nevertheless, it has been argued that the practical benefits of the installations that have been carried out justify their retention. The garden has a longstanding role as an adjunct to the public house and the installations do provide benefits for customers. The roofed structures and seating provide a useful practical facility, while the perimeter fences give some shelter and enhance the seclusion of the garden. Even so, the project would amount to a long term change, if not a permanent one, and the benefits of the project do not outweigh the harm to the listed building to which the structures are attached. Moreover, it may be possible for customer facilities to be improved in other ways, by means of a more sensitive and sympathetic intervention affecting the listed building (though that would need to be the subject of a separate process, distinct from this appeal).
13. It has also been asserted that the installations which have been carried out amount to an improvement on the pre-existing condition of the garden. The status of any fences or other elements that may previously have existed is disputed, however, it being pointed out that the building was listed as long ago as 1952, while there is only limited evidence as to their quality.
14. To summarise, I have concluded that the works that have been carried out have harmed the special qualities of the listed building and its setting in the Conservation Area. I am convinced that the practical benefits of the scheme are not sufficient to outweigh the objections which I have identified and that, having special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses, listed building consent ought not to be granted for the works.

Conclusions

15. For the reasons given above I conclude that the appeal should fail and, although I have considered all the matters raised in the representations, I have found nothing in them to alter my conclusions in relation to the various elements of the work or on the merits of the appeal as a whole. I will uphold the listed building enforcement notice and refuse to grant listed building consent subject to conditions.

Decision

16. The appeal is dismissed, the listed building enforcement notice is upheld and listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Roger C Shrimplin

INSPECTOR

SCHEDULES

(from the Enforcement Notice)

3. THE BREACH OF LISTED BUILDING CONTROL ALLEGED

Without Listed Building Consent:

- (i) the erection of single storey timber structures in the rear garden. The structures have galvanized corrugated aluminium sheet roofing with timber benches and tables underneath, which are attached to timber decking.
- (ii) the installation of new timber fencing around the entire perimeter of the garden with painted horizontal slats.
- (iii) the installation of a new timber door with vertical slats within an existing opening onto Regency Mews.

5. WHAT YOU ARE REQUIRED TO DO

- 1. Remove each of the following from the rear garden/yard:-
 - (i) The benches and tables
 - (ii) The roof structures including supports
 - (iii) The decking
 - (iv) The fencing
- 2. Paint the gate black.
- 3. Make good any resultant holes and/or damage to the listed building using materials of matching composition, form and finish to those of the listed building.
- 4. Remove all resultant timber, aluminium roofs and other associated building materials from the Land.