



# Appeal Decision

Site visit made on 18 December 2015

**by R C Shrimplin MA(Cantab) DipArch RIBA FRTPi FCIArb MCIL**

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

**Decision date: 29 January 2016**

**Appeal Reference: APP/Q1445/Y/15/3130330**

**Flat 3, 6 Brunswick Terrace, Hove BN3 1HN**

- 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 Mrs A Fewings against the decision of Brighton and Hove City Council.
- The application (reference BH2014/03223, dated 21 September 2014) was refused by notice dated 24 April 2015.
- The works proposed are described in the application form as: "convert the second (single) bedroom into a kitchen and the existing kitchen into a double bedroom; includes partial removal of supporting wall + one door".

## Decision

1. The appeal is allowed and listed building consent is granted for alterations to Flat 3, 6 Brunswick Terrace, Hove BN3 1HN, to create a modified kitchen and bedroom, as executed, in accordance with the terms of the application (reference BH2014/03223, dated 21 September 2014).

## Preliminary points

2. Notwithstanding the description of the proposed development given in the application form, I am convinced that the appeal proposals should more succinctly be described as alterations to the listed building to create a modified kitchen and bedroom.
3. The appellant's new married name has been noted but the appeal has been dealt with in accordance with the submitted documentation, for the sake of consistency and clarity.

## Main issue

4. The main issue to be determined in this appeal is the effect of the works for which listed building consent is sought on the listed building and its setting.

## Reasons

5. Numbers 1-6 Brunswick Terrace form a substantial and imposing Georgian terrace, dating from 1824-1828. It is faced in stucco over brickwork, with slate roofs, and is constructed over a basement storey that looks into a well which runs around the perimeter of the building, adjacent to the public footpath in Brunswick Terrace and Waterloo Street. The terrace has been listed as a whole

as a building of special architectural or historic interest (Grade I) and it is located within the Brunswick Town Conservation Area.

6. At the time of the site visit the building was affected by external scaffolding that disguised its appearance to some extent but which did not prevent the site visit from being effective.
7. The listed building has been subdivided into flats and Flat 3, to which this appeal relates, is a basement flat with frontages to both Brunswick Terrace and Waterloo Street. The works for which listed building consent is now sought involved the conversion of a bedroom to form the kitchen to the flat (on the Brunswick Terrace frontage) and the conversion of the previous kitchen to form a bedroom. Thus, the flat itself had already been created as a result of earlier conversion works.
8. It appears that the works to which the appeal relates were carried out some considerable time ago. Indeed, a "Certificate of Completion" (under the Building Regulations) has been submitted as part of this appeal. The Certificate shows that a formal inspection had been carried out and that the works for the "proposed removal of inner non-supporting wall and doors" (application reference BN2002/0902) had been completed before 15 June 2007. No contravention of the Building Regulations had been identified.
9. Whether or not listed building consent ought to have been obtained at that time, in all the circumstances, no application for such consent was submitted. This appeal relates to a recent retrospective application for listed building consent for the works as executed (as set out above).
10. Provisions in the Planning (Listed Buildings and Conservation Areas) Act 1990 impose obligations on those considering whether to grant listed building consent for works that would affect a listed building. In such cases, it is necessary 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. Other provisions in the Act require decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas affected by development proposals.
11. 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".
12. The Policies in the Development Plan do not have the same weight in respect of applications for listed building consent as would be the case in respect of an application for planning permission. Besides, a planning application would not be applicable to the internal and minor works that are the subject of this appeal (and which were carried out a number of years ago) and there is no such application in this case.
13. The Policies are material considerations, nevertheless, and the Development Plan includes Policies that are aimed at protecting the historic environment. Policy HE1 of the Brighton and Hove Local Plan is of particular relevance, since it is aimed at protecting listed buildings specifically. Supplementary Planning Documents are also relevant, notably 'SPD 09: Architectural Features'.

14. The internal works that have been carried out, to form the adapted kitchen and bedroom, can hardly be said to have materially affected the historic or architectural qualities of the listed building and they are not contentious in this appeal.
15. Nevertheless, objections have been raised to the installation of a waste pipe from the kitchen that has been taken through the external wall of the flat and which runs along the outside of the wall to discharge to a gully some distance away. The pipe is of relatively narrow gauge and is set low down on the wall, close to the floor of the lightwell at the back of the footpath on Brunswick Terrace. Although the pipe falls towards the gully (for obvious practical reasons), it has only a relatively shallow slope. Moreover, the pipe has been painted to match the wall against which it is fixed and does not affect any mouldings or other significant architectural elements.
16. In consequence, the pipe is not visually intrusive and does not cause material harm to the listed building, nor to its setting in the Brunswick Town Conservation Area. It is true that the creation of an underground connection to the main drains would be less visible (or might even be completed internally) but there would be some disruption to the fabric of the building and the lightwell and the imposition of such a requirement would not be justified, in relation to this appeal.
17. Comment has also been made about the efficacy of the drainage system, since the kitchen waste discharges into a gully that is shared with rainwater pipes. Such a system is not ideal, of course, but is not untypical of such old buildings, while other gullies serving this part of the listed building evidently also discharge to a combined sewerage system. In any case, such concerns are more appropriately considered in relation to other legislation or in the context of private obligations, if any (which are outside the scope of this appeal).
18. In short, the conversion scheme for which retrospective consent is sought does improve the layout of the flat and it does not do any material harm to the listed building or to its setting in the Conservation Area, in the context of all the changes that have taken place over the years. The lack of any action during the years since the work was done supports the conclusion that the pipe from the kitchen does not significantly harm the appearance of the building.
19. Hence, I have concluded that the scheme before me does not conflict with the aim of protecting the historic environment which is established in primary legislation and set out in Section 12 of the 'National Planning Policy Framework'. I am persuaded that the scheme before me can properly be permitted and I have found nothing to cause me to alter my decision.
20. In view of the fact that the works were completed some years ago and the lack of detail on the submitted drawings, it is not necessary for conditions to be applied in respect of this decision.

*Roger C Shrimplin*

INSPECTOR

