



# Appeal Decisions

Site visit made on 28 October 2009

by **Jennifer Vyse** DipTP DipPBM MRTPI

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

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**Decision date:**  
**18 November 2009**

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## Appeal Ref: **APP/Q1445/A/09/2099281** **102 Marine Parade, Brighton BN2 1AT**

- 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 and Mrs McClymont against the decision of Brighton & Hove City Council.
- The application No BH2008/03096, dated 12 September 2008, was refused by a notice dated 20 January 2009.
- The development proposed is described as conversion of house into five flats (re-submission).

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## Appeal Ref: **APP/Q1445/E/09/2099297** **102 Marine Parade, Brighton BN2 1AT**

- 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 Mr and Mrs McClymont against the decision of Brighton & Hove City Council.
- The application No BH2008/03083, dated 12 August 2008, was refused by a notice dated 20 January 2009.
- The works proposed are described on the application form as conversion of dwelling into five flats (re-submission).

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### Inspector's Decision

1. For the reasons that follow I dismiss both appeals.

### Main Issues

2. The main issues in this case are whether the scheme proposed would preserve the special architectural and historic interest of this grade II listed building; the effect of the proposed cycle and refuse store on the setting of the listed building and on the character and appearance of East Cliff Conservation Area; whether the proposal would make satisfactory provision for the parking of cycles; whether the absence of a planning obligation would significantly harm the aim of local planning policies to reduce reliance on the private car; whether the scheme would significantly undermine local planning policies which seek to reduce the use of energy, water and materials in new development and promote a sustainable approach to waste management.

### Reasons for the Decision

#### *Listed Building*

3. The grade II listed appeal property forms one end of a short terrace of three houses located on the seafront within East Cliff Conservation Area. No 102, which comprises four storeys plus a basement, is sited on the corner of

Burlington Street, at its junction with Marine Parade. Although the submissions with the planning application indicate that the property is vacant, it was clearly being occupied for residential purposes at the time of my visit. I understand that its last lawful use was as a single dwellinghouse.

4. During my visit, I saw that the building still retains its original Regency staircase at first floor level and above, in its original location. The staircase linking the ground and first floors has been replaced, possibly at the turn of the century, with one that appears to be larger than the original would have been, and a glazed lobby has been added at sometime in the past at ground floor. Notwithstanding the alterations that have taken place, the building retains a significant proportion of its original historic and architectural character. To my mind, its special interest is found not only in its history and external appearance, but also in the remains of the original staircase.
5. It is proposed to convert the lower ground, ground and first floors to 3 two-bedroom flats, with 2 one-bedroom flats on the second and third floors. A single storey extension is proposed at the rear lower ground floor level, which would align with the projecting rear elevation of the ground floor above. A free-standing refuse and cycle store is also proposed to the front of the property, adjacent to the boundary with Burlington Street.
6. The Council takes no issue with the principle of conversion to flats, or with the removal of the glazed lobby. Other than the design and proportions of the windows, a matter that could be addressed by condition were the appeal to succeed, no issue is taken either with the proposed rear extension. However, while it is proposed to reinstate the staircase at ground floor, in a design to match that of the original staircase above, it would be in a different location, set in some 1m from the eastern (party) wall to the property. The remaining original staircase at first second and third floor would also be repositioned 1m in from the eastern wall of the building. The relocation of the staircase is intended to facilitate private access at each floor between the front and rear parts of each of the flats proposed, allowing for the staircase to provide a communal access to each floor.
7. Current guidance in PPG15<sup>1</sup> emphasises that the removal or alteration of any historic staircase is not normally acceptable. The importance of staircases, and the presumption in favour of their retention, is also addressed in supplementary planning guidance adopted by the Council (SPG11)<sup>2</sup>. The staircase is an integral part of the building and, on the upper floors at least, remains in its original location. I am in no doubt that its re-siting would have a significant detrimental impact on the special architectural and historic interest of the listed building.
8. In support of the appeals, I am advised that in September 1981, consent was granted by the Council for conversion works, including the relocation of the existing stairs at ground floor and above to facilitate private access between the front and rear parts of the building<sup>3</sup>. Although the consent was partially implemented, the alterations to the staircase were not undertaken and I understand that that permission has since been superseded by other consents.

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<sup>1</sup> Planning Policy Guidance Note 15 'Planning and the Historic Environment'

<sup>2</sup> Listed Building Interiors, adopted on 4 September 2003 following public consultation

<sup>3</sup> No 81/873: use of basement as storage, ground floor as offices and upper floors as self-contained flats.

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Be that as it may, the appeal proposal has to be considered in the light of current policy and guidance which speaks against such alterations.

9. I recognise that there are benefits associated with the proposed works. The scale of the building and the lack of any private amenity space, means that it has limited appeal as a single family residence. Conversion to flats would allow for its continued use, the scheme before me largely retaining the grand proportions of the front rooms as well as providing a beneficial use for the basement area, which is currently only used for storage. The principle of reinstatement of a staircase at ground floor that replicates the original in terms of its design is also to be welcomed and I recognise that the original stair case would not be lost as such.
10. To my mind however, the proposal would be materially harmful to the character and special architectural and historic interest of the listed building, to an extent that would not be justified by the benefits outlined. On this basis, I find that the proposed works would not accord with national guidance in PPG15, as reflected in saved policy HE1 of the Local Plan<sup>4</sup>, SPG11 and SPG13<sup>5</sup>, which together seek to safeguard listed buildings.

#### *Conservation Area and Setting of the Listed Building*

11. It is proposed that a flat roofed enclosure, with a footprint of 3m x 2.7m and a height of 1.3m, would be erected within the front garden to the property, adjacent to the boundary with Burlington Street, to provide storage for refuse bins and cycles. During my visit I saw that notwithstanding boundary walling, garden areas such as that to the front of this listed terrace, together with other front gardens in the immediate vicinity, soften the boundary between buildings and the road and are an historic feature of the Conservation Area.
12. In my opinion, although the proposed store would not necessarily be readily visible from outside the site, it would erode the open nature of the frontage. It would not be in keeping with the historic setting of the listed terrace and would set an undesirable precedent in the area. AS a consequence, the development would not preserve or enhance the character or appearance of the Conservation Area, contrary to saved policies QD1, QD2, QD14 and HE6 of the Local Plan. It would also have an adverse impact on the setting of the listed terrace, contrary to saved policy HE6 of the Local Plan.

#### *Cycle Parking*

13. The appellant indicates that a total of five cycle parking spaces would be provided. That would be one short of the six required by SPGBH4<sup>6</sup>, which was produced pursuant to Local Plan policy TR14. Of more significance however, is that with an overall height of just 1.3m, it is difficult to see how even five cycles could be readily accommodated within the proposed enclosure on the site in a secure manner. In my opinion, the cycle parking provision proposed would be unlikely to provide a useable amenity for future occupiers which in turn, would be likely to discourage the use of cycles as an alternative means of travel to the private car, contrary to the thrust of policy TR14.

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<sup>4</sup> Brighton and Hove Local Plan 2005

<sup>5</sup> Listed Buildings – General Advice, adopted 4 September following public consultation

<sup>6</sup> Supplementary Planning Guidance Note 4 'Parking Standards'

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### *Sustainable Transport*

14. Although the appeal site currently provides three off-street parking spaces, these do not have the benefit of planning permission. Having said that, policy HO7 of the Local Plan does allow for car free housing in locations with good access to public transport and local services and facilities in the presence of complementary on-street parking controls. In such circumstances, the policy requires a contribution from the developer towards the improvement of public transport facilities and/or infrastructure in the locality. The explanatory text also confirms a need to ensure that car free development does not result in additional parking on neighbouring streets.
15. The Council confirms that the site is well served by public transport and I saw that local services and facilities are within easy walking distance. Moreover, the site lies within a controlled parking zone. On this basis, I am satisfied that a car free development is appropriate in this case. Having regard to the provisions of saved policies HO7 and SU15 of the Local Plan, I am satisfied that there is a need for an appropriate contribution towards necessary public transport facilities services/infrastructure in the City, and for an arrangement to prevent future occupiers from being eligible for on-street resident parking permits. Whilst arrangements in relation to the latter matter could be dealt with by condition, a financial contribution can only be secured by way of an agreement under the provisions of S106 of the Town and Country Planning Act 1990 as amended, not by means of a condition as suggested by the appellant. No such agreement is before me. The absence of any such agreement would, in my opinion, significantly harm the thrust of local planning policies aimed at reducing reliance on the private car in the pursuit of sustainable development.

### *Energy Efficiency and Sustainable Waste Management*

16. Policy SU2 of the Local Plan requires that new development should demonstrate a high level of efficiency in the use of energy, water and materials. Although a Waste Minimisation and Management Strategy was submitted with the planning application, it does not clearly demonstrate how the measures set out in the policy would be integrated into the development proposed. In my opinion, the requirements of the policy would not be met, undermining the aim of the Council to promote a sustainable approach to new development by reducing use of limited resources.
17. Local Plan policy SU2 and Planning Advice Note 05<sup>7</sup> also require that development should provide sufficient space to make it easy for households to separate and store recyclable waste. I am mindful in this respect that the freestanding structure proposed to the front of the property incorporates five separate bin stores, one for each of the flats proposed. However, there is no provision for the storage of recyclable waste. As a consequence, the development would, in my opinion, undermine the aim of local planning policies and guidance which seek to promote a sustainable approach to waste management.
18. I recognise that providing such facility within the freestanding structure to the front would necessitate a larger structure which, given my findings above

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<sup>7</sup> 'Design Guidance for the Storage and Collection of Recyclable Materials and Waste' produced by the Council in September 2007.

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would not be appropriate. That is not to say however, that some alternative provision could not be made within each property for example, to facilitate source separation and storage of recyclable waste.

**Conclusions**

19. For the reasons set out above I conclude that neither of the appeals should succeed.

*Jennifer A Vyse*

INSPECTOR

