



Appeal Decisions

Site visit made on 27 January 2010

by **Joanna C Reid** BA(Hons) BArch(Hons)
RIBA

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
18 February 2010

2 Appeals at Northgate Cottage, Falmer Road, Rottingdean, Brighton BN2 7DT

- The appeals are made by made by Mr Kim Strasman against the decisions of Brighton & Hove City Council.
- The proposals are the subdivision of the studio from 1 & 2 Northgate Cottages to form a self contained residential unit.

Appeal A Ref: APP/Q1445/E/09/2109472

- 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 application Ref BH2008/03708, dated 12 November 2008, was refused by notice dated 4 March 2009.

Appeal B Ref: APP/Q1445/A/09/2108856

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The application Ref BH2008/03707, dated 12 November 2008, was refused by notice dated 4 March 2009.

Decision: Appeal A Ref: APP/Q1445/E/09/2109472

1. I allow the appeal, and grant listed building consent for the subdivision of the studio from 1 & 2 Northgate Cottages to form a self contained residential unit at Northgate Cottage, Falmer Road, Rottingdean, Brighton, BN2 7DT, in accordance with the terms of the application, Ref BH2008/03708, dated 12 November 2008, subject to the following conditions:
 - 1) The works hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The works hereby permitted shall be carried out in accordance with the approved plans numbered 01B, 02, 03, 04, 05A, 06a, 07A, and 10.
 - 3) A sample area of the flint and brick wall shall be constructed on the site and shall be approved by the local planning authority in writing and the works shall be carried out to match the approved sample area.

Decision: Appeal B Ref: APP/Q1445/A/09/2108856

2. I allow the appeal, and grant planning permission for the subdivision of the studio from 1 & 2 Northgate Cottages to form a self contained residential unit at Northgate Cottage, Falmer Road, Rottingdean, Brighton, BN2 7DT, in accordance with the terms of the application, Ref BH2008/03707, dated 12 November 2008, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans numbered 01B, 02, 03, 04, 05A, 06a, 07A, and 10.
- 3) Notwithstanding the provisions of the *Town and Country Planning (General Permitted Development) Order 1995* as amended (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other alteration of the dwelling shall be carried out other than those expressly authorised by this permission.
- 4) All glazing in the north-east facing wall up to 1800mm above finished floor levels shall not be glazed otherwise than with obscured glass and, except for the ground floor French windows, all glazing up to 1800mm above finished floor levels shall be fixed shut and shall be retained thereafter.
- 5) No development shall take place until details of the storage of refuse and recycling and cycle parking has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and shall be retained thereafter.
- 6) The car and motorcycle parking spaces to be provided shall be kept available for the parking of motor vehicles and motorcycles at all times. The car and motorcycle parking spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and retained as such thereafter.
- 7) The materials, joinery and roof light to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 8) A sample area of the flint and brick wall shall be constructed on the site and shall be approved by the local planning authority in writing and the development shall be carried out to match the approved sample area.

Appeal A: Main issue

3. I consider that the main issue in this appeal is the effect that the subdivision of the plot and the proposed wall would have on the setting of the listed building.

Appeal A: Reasons

4. The listed building, 1 to 4 (consecutive) Northgate Cottages, was listed in Grade II on 20 August 1971. The group includes a pair of cottages, 1 and 2 Northgate Cottages, which have been converted to a single 2 to 3 bedroom dwelling. It is not clear whether the cottages had been converted to a single dwelling at the time when the building was listed. The proposed conversion of the studio in its garden to a separate dwelling would result in 2 dwellings on the plot where there had historically been 2 dwellings, so the subdivision of the plot is acceptable in principle.
5. Although there is currently a single garden on 2 levels, little documentary evidence of the historic layout of the former plots for each of 1 and 2 Northgate Cottages has been put to me. The low wall and pier which presently separates the upper and lower gardens, which may have formed the original rear boundary of at least one of the cottages' plots, is roughly in line with the

outbuildings in the back gardens of 3 and 4 Northgate Cottages, which were listed at the same time. That wall and pier would be retained, and it would continue to define the boundary between the lower and upper gardens.

6. A new flint and brick wall about 0.85m high would subdivide the upper garden. It would be a low-key addition which would define the proposed courtyard to the listed building and the upper garden area next to the proposed dwelling. The openness over the whole historic upper garden would therefore be preserved. As the proposal would also preserve much of the boundary between the upper and lower gardens, which is important to the setting of the listed building, the historic pattern of the plot would also be preserved. Thus, the subdivision of the plot would not harm the setting of the listed building. In consequence, it would preserve the character of the Rottingdean Conservation Area within which it stands.
7. The Council's suggested condition for a flint wall sample is reasonable and necessary as the proposal is within the setting of a listed building and within a Conservation Area. I have also imposed a condition identifying the application drawings for the avoidance of doubt and in the interests of proper planning.
8. I conclude that the subdivision of the plot and the proposed wall would not harm the setting of the listed building. It would satisfy saved Policy HE3 of the *Brighton & Hove Local Plan* (LP), and national policy in Planning Policy Guidance: *Planning and the Historic Environment* (PPG15). For the reasons given above and having regard to all other matters raised, the appeal succeeds.

Appeal B: Reasons

9. I consider that the main issues in this appeal are firstly, the effect the proposal would have on the setting of the listed building, and thus on the character or appearance of the Conservation Area within which it stands, secondly, its effect on the living conditions of the occupiers the listed building with regard to perceived overlooking from the proposed dwelling, and thirdly, its effect on the living conditions of the future occupiers of the proposed dwelling with regard to Lifetime Homes standards.
 10. For the very same reasons as in Appeal A, I consider that the subdivision of the plot would not harm the setting of the listed building, and in consequence it would preserve, and thus not harm, the character of the Conservation Area.
 11. The studio was a flat-roofed garage which has been extended a number of times. It is now approaching the size of the dwelling it once served, and this is plain in views from Falmer Road. Its character as an ancillary building to the main dwelling has been compromised by the addition of the balcony, and it already looks like a small dwelling. In consequence, the loss of the garage doors and the addition of a modest bay window that the proposal would cause would not harm its existing character. Whilst it would be visible from the public domain the proposed dwelling would not harm the setting of the listed building.
 12. Because it would be a relatively small dwelling I do not consider that the use of the site would be greatly intensified, or that the use of the balcony in connection with the proposed dwelling would harm the living conditions of neighbours. I consider that the proposal would not harm the setting of the
-

listed building, and that it would not harm the character of the Conservation Area within which it stands. It would satisfy saved LP Policies HE3 and HE6, and the advice in PPG15.

13. Turning to my second issue, overlooking of the listed building from the first floor openings in the north-east elevation of the appeal building does not occur because the glazing is obscured, and a planning condition could be imposed for it to be retained. Also, the views from the first floor windows in the listed building towards the proposed dwelling are seriously restricted by their comparatively small size and their relatively low head heights. Due to the sufficient distance between the buildings, and their physical relationship to one another, I do not consider that the first floor glazing in the proposed dwelling would cause a perception of overlooking which would harm the living conditions of the occupiers of the listed building either inside or outside their home. It would satisfy saved LP Policy QD27.
14. Whilst the proposed wall by the courtyard to the listed building would not be sufficiently tall to ensure the privacy of the neighbouring occupiers, this was not a concern of the Council in their reasons for refusal. Low walls at the site and close by contribute in an important way to the character of the Conservation Area. In my view, the depth of the listed building courtyard is sufficient to provide a reasonable degree of privacy having regard to its siting within this Conservation Area, and screen planting on either side of the wall could be provided at the occupiers' discretion.
15. Turning to my third issue, saved LP Policy HO13 states that proposals for conversions and changes of use to provide residential accommodation will be expected to demonstrate that wherever it is practicable Lifetime Homes criteria have been incorporated into the design. However, the relevant Planning Advice Note was not included with the Council's Questionnaire, and the Council have raised no specific concerns about the proposal. I consider that the proposed conversion of the studio to a fairly compact one bedroom dwelling would provide attractive and useable accommodation for its future occupiers. Although it might not satisfy all of the Lifetime Homes criteria, and it would be contrary to the letter of saved LP Policy HO13, this would not be a sufficient reason to refuse planning permission for this otherwise acceptable proposal. I consider that the proposal would not harm the living conditions of the future occupiers with regard to Lifetime Homes standards.
16. I have carefully considered the Council's suggested conditions. A condition identifying the application drawings is necessary for the same reasons as in Appeal A. The exposed siting of the appeal building within a Conservation Area and its relationship with the surrounding dwellings and their gardens provide the exceptional circumstances whereby it is reasonable and necessary to remove permitted development rights for extensions and alterations. The condition to control obscured glazing is reasonable to protect the living conditions of the occupiers of the listed building. Conditions to control materials, including the proposed wall and joinery, including the roof light, cycle parking, and refuse and recycling facilities, are reasonable and necessary to protect the character of the area, as the site is within a Conservation Area. The condition controlling parking at the site is necessary in the interests of highway safety. I shall impose these conditions, re-worded as necessary in the

light of the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*.

17. The Council do not object to the existing roof light, so it would not be reasonable to require a different type for the proposed roof light. The condition for a scheme to be agreed with the Council for a financial contribution towards sustainable transport infrastructure would not be reasonable because the change of use of the existing studio, which is in use as the appellant's offices, to a small dwelling would have a negligible impact on transport. Also, planning permission could not reasonably be withheld if the contribution were not to be paid. The Code for Sustainable Homes has replaced the Building Research Establishment Environmental Assessment EcoHomes standards for new housing. Compliance with Code Levels, which have been set above the requirements of the current Building Regulations, is currently voluntary. As the appellant objects to the conditions, they would not be reasonable. A waste minimisation statement was submitted with the application for this limited refurbishment proposal, so the condition would not be necessary. For the reasons already given, details of Lifetime Homes standards would not be reasonable or necessary. As these conditions do not satisfy all of the tests in the Circular, I shall not impose them.
18. For the reasons given above and having regard to all other matters raised, the appeal succeeds.

Joanna C Reid

INSPECTOR

