



# Appeal Decisions

Site visit made on 5 August 2010

by **John Papworth** DipArch(Glos) RIBA

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

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**Decision date:**  
**2 September 2010**

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## Appeal A: APP/Q1445/E/10/2121322

### Flat 3, 7 Adelaide Crescent, Hove, East Sussex BN3 2JE

- 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 Michael Kingston against the decision of Brighton & Hove City Council.
- The application Ref BH2009/01258, dated 1 June 2009, was refused by the Council by notice dated 27 July 2009.
- The works proposed are erection of balcony on rear wall of property overlooking Holland Road.

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## Appeal B: APP/Q1445/A/10/2121040

### Flat 3, 7 Adelaide Crescent, Hove, East Sussex BN3 2JE

- 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 Michael Kingston against the decision of Brighton & Hove City Council.
- The application Ref BH2009/00818, dated 1 June 2009, was refused by the Council by notice dated 27 July 2009.
- The development proposed is erection of balcony on rear wall of property overlooking Holland Road.

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## Decisions

1. I dismiss both Appeal A and Appeal B.

## Main Issues

2. The premises are a Grade II\* listed building and the main issue in both appeals is the effect of the proposal on the architectural or historic interest of the building and its setting within the Brunswick Town Conservation Area.

## Reasons

3. The proposal is as shown on the application drawings and set out within the Design and Access Statement. I cannot find reference to this being a 'decorative' balcony, as stated by the Council's conservation officer and it appears to me that the proposal is for a plain fixture similar to many that adorn the rear of this terrace.
4. However, that said, I find these other fixtures unattractive and to detract from the interest of the listed building and its setting. Unlike many rear walls, this one is readily seen in views within the designated area and the projecting part

- to which this balcony would be fitted is prominent and attractive for its relative plainness, with the window in question being an unadorned opening.
5. As advised in Planning Policy Guidance Note 15 "*Planning and the Historic Environment*" which was current at the time of the applications and decisions, and carried forward in the replacement Planning Policy Statement 5 "*Planning for the Historic Environment*", works to a listed building may be justified by benefits. Under the proportionate approach advocated, the greater the harm to the significance of the heritage asset the greater the justification needed for any loss. It appears to me that much of the existing metalwork could have been justified at the time as being required for fire escape purposes, which does not apply in this case. I note also the Council's view that another balcony cited by the appellant does not have the benefit of express consent.
  6. Returning therefore to the use of the word 'decorative', I do consider there to be a difference between a fixture that is required for an essential utilitarian use, a fire escape, and one that is sought for convenience or relaxation and the like. Whether or not that is the difference that the Council sought to imply by the use of the word, the proposals are before me to determine afresh. The appellant states that this balcony is to provide an amenity in the family home, that the appellant has a disability and that the design has been prepared such that inclusive access is available. Whilst I appreciate the use that the balcony would be put to, I find the harm in this case to be real and serious due to the location of the rear addition and the exposed position, and that in the balance required of this decision, I conclude that the proposal would fail to preserve the architectural interest of the listed building, with no justification sufficient to outweigh this harm.
  7. The tests in Section 16(2) and 66(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special regard is 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 would not be met, similarly, there would be harm to the character and appearance of the conservation area contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. As a result, policies in the Local Plan listed by the Council would not be accorded with, they being HE1, HE3 and HE6 on the preservation of listed buildings, their setting and the conservation area. For the reasons given above I conclude that both appeals should be dismissed.

*S J Papworth*

INSPECTOR