



Appeal Decisions

Hearing held on 11 January 2011
Site visit made on 11 January 2011

by David Prentis BA BPI MRTPI

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

Decision date: 24 January 2011

Appeal A: APP/Q1445/E/10/2134493

7 Victoria Road, Brighton BN1 3FS

- 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 Christopher Jackson against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/00347, dated 8 February 2010, was refused by notice dated 18 May 2010.
 - The works proposed are the formation of a sunken hidden outside roof space.
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Appeal B: APP/Q1445/A/10/2134492

7 Victoria Road, Brighton BN1 3FS

- 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 Christopher Jackson against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/00346, dated 8 February 2010, was refused by notice dated 19 May 2010.
 - The development proposed is formation of a sunken hidden outside roof space.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Main issue

3. The works include the provision of a staircase leading to the proposed roof terrace. The Council raises no objection to this aspect of the scheme and I see no reason to disagree. The main issue, for both appeals, is the effect of the works/development at roof level on the special interest of the listed building and its setting within the Montpelier and Cliftonhill Conservation Area.

Reasons

4. The listing description noted that the property is an early to mid 19th century terraced house and shop comprising 3 storeys over a basement. Although the shopfront has been retained the whole building is now in residential use. The Conservation Area Character Statement comments that the area has a varied and highly attractive townscape. No 7 stands at the junction of two terraces,

in Victoria Road and Victoria Street, which are characteristic of this townscape. It has recently been renovated and makes a positive contribution to the character and appearance of the area.

5. The Council and the appellants disagreed over the significance of the roof structure to the special interest of the building. The appellants argued that the listing description emphasises the importance of the shopfront and states that the roof is obscured by parapets. However, Policy HE7.1 of Planning Policy Statement 5: *Planning for the Historic Environment* (PPS5) requires that a full assessment is made of the significance of a heritage asset. Any designation records, such as the listing description, will be just one element of such an assessment.
6. There are two sections of pitched roof, each with a ridge running north/south. In common with many other roofs in the locality, the roof was not intended to be seen from ground level and is partially concealed behind parapets. This approach reflects the architectural style and building technology of the period and does not mean that the roof is unimportant in terms of the special interest of the building.
7. The western section of roof has been rebuilt using modern materials, including concrete tiles, following fire damage. Nevertheless, the Council and the appellants agreed that the form of this roof is likely to be similar to the structure it replaced. The eastern section of roof is also covered in modern tiles. However, the internal structure is clearly much older. The appellants suggested that the roof is unlikely to be original, based on evidence that rainwater drains to a modern down pipe together with evidence of works to the north parapet. Whilst there have been works to the valley, and a section of parapet has been rebuilt, I do not regard that as conclusive evidence that the roof structure has been substantially altered.
8. Having regard to the appearance of the roof timbers, I consider that the greater part of the structure may well be original. If not, it is of considerable age and is of a design which is consistent with the period of the building. In either case, I consider that the fabric of the eastern section of roof is important to the significance of the listed building. Moreover, the form of the roof as a whole is important because it is likely to be very similar to the original roof.
9. The *Historic Environment Planning Practice Guide* which accompanies PPS5 states that retention of as much historic fabric as possible is a fundamental part of any good alteration. The proposal would not accord with this advice because it would result in the removal of over half of the eastern roof. This would amount to a significant loss of historic fabric. Moreover, the replacement of a characteristic pitched roof with an uncharacteristic sunken terrace would be harmful to the special interest of the listed building. The fact that the alterations would not be widely visible from outside the site, (a point I shall expand on below), has little relevance to this assessment.
10. I conclude that the proposal would fail to preserve the special interest of the listed building and would be harmful to its significance. It would therefore conflict with Brighton and Hove Local Plan 2005 (LP) Policy HE1 which seeks to protect listed buildings.
11. I turn to the effect on the street scene and conservation area. The scheme would retain the roof slope facing Victoria Street and the infill walls facing Victoria Road would be set back from the parapet. Consequently, the

alterations would not be visible from street level. The flat roof and stairway enclosure would not be readily visible other than from the air. The infill walls could be seen from the upper floor windows of a few nearby properties although they would form a very minor element in the roofscape of the wider conservation area. The impact could be reduced further by the use of appropriate materials, a matter which could be controlled by a condition.

12. It is probable that any items such as trellises or sun umbrellas placed on the terrace would be seen from the street. This would appear incongruous and would be harmful. However, it is a matter which is capable of being controlled by a condition. Subject to appropriate conditions, I consider that the alterations would not be materially harmful to the conservation area. The character and appearance of the conservation area would therefore be preserved. The proposal would accord with LP policy HE6 which seeks to protect conservation areas.

Other matters

13. The appellants have offered to replace the modern roof tiles with slate, which would have been the original roof material. This is a matter which could be secured by a condition. The use of slate would be more appropriate to the listed building and would be an enhancement to the conservation area.
14. The house is a family sized property which has very limited private amenity space. The appellants drew attention to LP Policy HO5. That policy deals with private amenity space in new residential development and is not therefore relevant to the appeals. Even so, I consider that providing amenity space would be a benefit to the occupiers. On the other hand, the Council pointed out that there are many family sized properties in the older parts of Brighton which do not benefit from such space. There is therefore no reason to think that the lack of a roof terrace would call into question the continued use of the property as a dwelling.
15. My attention has been drawn to other locations where roof terraces have been permitted. None of these appear to be directly comparable with the circumstances of the current appeals which should be determined on their own merits.
16. The occupiers of No 22 Victoria Street are concerned about overlooking and noise. However, I saw that the roof terrace would not cause overlooking because of the differences in levels between the properties. I do not consider that normal domestic use of this small area would result in harm to the living conditions of nearby residents.
17. I have taken account of Supplementary Planning Guidance SPGBH Note 1 *Roof Alterations and Extensions* which highlights the potential for roof terraces to impact on the amenity of neighbouring residents and on the street scene. For the reasons given above, I do not consider that the appeal scheme would be harmful in these respects. Whilst I have noted the English Heritage leaflet *Mansard Roofs*, I attach greater weight to the more recent advice in PPS5 and the accompanying practice guidance.

Conclusion

18. I have concluded that the proposal would be harmful to the significance of the listed building although it would not be harmful to the character and appearance of the conservation area. Having regard to the advice of PPS5,

I consider that the harm to the listed building would be less than “substantial harm”. In these circumstances, Policy HE9.4 requires the harm to be balanced against any benefits of the proposals.

19. The appellants have offered to replace the modern roof tiles with slate. In addition, the scheme has the benefit of providing amenity space. However, I do not consider that these benefits, alone or in combination, are sufficient to outweigh the harm to the listed building.
20. I have considered all other matters raised, including representations in support of the proposal, but find nothing to alter my conclusions. The appeals should not therefore be allowed.

David Prentis

Inspector

APPEARANCES

FOR THE APPELLANTS:

John Fortune Architectural Consultant

Christopher Jackson Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Clare Simpson Planning Officer, Brighton and Hove City Council
BSc(Hons) MA

Geoff Bennett Conservation Officer, Brighton and Hove City
BA(Hons) MA DipTP IHBC Council

INTERESTED PERSON:

Roger Amerena Local resident¹

DOCUMENTS SUBMITTED AT THE HEARING

- 1 The Council's notification of the hearing
- 2 Photographs from the roof submitted by the appellants

¹ Mr Amerena is a member of the Council's Conservation Advisory Group. He appeared at the hearing in a personal capacity.

