



Appeal Decision

Site visit made on 26 August 2014

by **Philip Willmer BSc Dip Arch RIBA**

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

Decision date: 11 November 2014

Appeal Ref: APP/Q1445/E/14/2213119

Flat 4, 159 Marine Parade, Brighton, East Sussex, BN2 1EJ.

- 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 Peter Klein against the decision of Brighton and Hove City Council.
 - The application Ref BH2013/01463, dated 9 May 2013, was refused by notice dated 5 August 2013.
 - The works proposed are described as *a) minor alterations to internal studwork of an already converted property b) new removable glazed panels behind existing balcony balustrade to comply with current health and safety requirements.*
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Decision

1. I dismiss the appeal in so far as it relates to the installation of the proposed new removable glazed panels behind existing balcony balustrade to comply with current health and safety requirements.
2. The appeal is allowed and listed building consent is granted in so far as it relates to the minor alterations to internal studwork of an already converted property at Flat 4, 159 Marine Parade, Brighton, East Sussex, BN2 1EJ in accordance with the terms of the application Ref. BH2013/01463, dated 9 May 2013 and the plans submitted with it, subject to the conditions set out in the attached schedule.

Main Issues

3. I consider the main issues to be the effect of the proposed works on the special architectural and historic interest and setting of the grade II listed property, and whether the works would serve to preserve or enhance the character or appearance of the East Cliff Conservation Area.

Reasons

4. The property the subject of this appeal is part of an early C19 terrace of houses (numbered 159 to 161 inclusive), listed grade II and located in a prominent corner position in the East Cliff Conservation Area. The property has been subdivided into flats and this appeal relates to flat 4, which is located on the first floor with balconies on the south and west elevations. As I saw the flat has been the subject of a number of significant internal alterations such that it now has a contemporary feel.
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5. In my view, the special architectural and historic interest of the listed building relates to the history of its development, its external design and detailing, the relatively undisturbed external appearance of the building and its setting as part of the terrace.
6. The appellant proposes two alterations. Firstly, minor alterations to internal studwork including the replacement of the door between the hallway and main reception room and, secondly, the installation of glazed screens behind the original balcony railings of the south-facing balcony. I shall consider each of the works in turn.

Internal alterations

7. From the Council's evidence I note that it considers that the internal alterations proposed to the layout of the flat are acceptable, with the exception of the design of the door between the hall and main reception room. Based on what I have read and my observations on site I would concur with its findings in respect of the proposed layout. Accordingly, in respect of these works I shall consider only the design and installation of the new door.
8. In respect of the proposed door, which I saw installed, this is of a simple modern design comprising three glazed panels. I accept that the door is not an historically correct replica of a typical internal door of the period of the house. However, in my judgement, bearing in mind all the earlier alterations and the contemporary feel of the flat, I do not consider that the installation of a replica door here would serve to better reveal the special architectural and historic interest of the property, even if one could be certain that every detail was both historically correct and the door was typical of the doors installed in the original house. Indeed in the context of the flat such a door would stand out as an incongruous and somewhat alien intrusion. Further, by reason of its overly modern design the door as installed would not mislead even the most casual of observers into thinking that it was original. Accordingly, in my judgement, it does not have any adverse effect on the architectural and historic character or appearance of the interior of the flat.
9. I therefore conclude in respect of this element of the works that the door, together with the other internal alterations, would not cause harm to the special architectural and historic interest of the grade II listed building. The works therefore comply with the objectives of saved Policy HE1 of the Brighton and Hove Local Plan (Adopted 2005) (LP).

Glazed screens

10. The appellant proposes to install 1.1 metre high screens behind the existing balustrade. He contends that the panels are required because the existing balustrade is not of sufficient height to meet current Building Regulations.
11. The screens to the west and south sides of the balcony would comprise 12mm low-iron glass panels (the front screen being made up of two panels), set in an aluminium channel bolted to the balcony deck. The existing balcony is some 1.5 metres deep and I have no doubt that the appellant is correct in his assertion that it was the intention of the designer that it should be used as outside space rather than merely a pleasing decorative addition to the building's façade. The existing balustrade is very low by modern standards and I can

appreciate that there may be a risk that a small child might climb on it or slip through the ironwork. I also accept that the proposed glass screen may be less visually intrusive than the alterations carried out to other nearby balustrades identified by the appellant. I am also aware of the various alterations that have been carried out to not only the balconies themselves, but also the balustrades of a number of neighbouring listed buildings. However, there is nothing before me to indicate the circumstances of these alterations, or whether they have been approved.

12. I can fully understand and I am sympathetic to the appellant's wish to make the balustrade as safe as possible. However, I consider that the installation of a permanent glass screen as proposed would, despite the use of low-iron glass, nevertheless change the appearance of the existing balustrade and what would clearly be a contemporary intervention would be visible both from inside and outside the building and the wider conservation area. The glazed screens would adversely impact upon the architectural and historic character and appearance of the listed building itself, the setting of the group of which it is a part and thereby on the character and appearance of the conservation area.
13. Furthermore, and while each application would be considered on its own merits, if the screens were allowed here then the Council would find it difficult to resist their installation elsewhere. The cumulative effect would in turn cause significant visual harm to this and other listed buildings, their setting and thereby the character and appearance of the conservation area.
14. Mindful of the need to ensure that the balcony is safe to use, and while it would be for the Council to consider any alternative proposals in the first instance, I believe that there may well be alternative design solutions open to the appellant that would be less damaging to the heritage assets than the screens now proposed.
15. The National Planning Policy Framework (the Framework) requires great weight to be given to the conservation of designated heritage assets, which include conservation areas and listed buildings. It draws a distinction between substantial harm and less than substantial harm to such an asset. For the latter, which applies here, the test is that the harm should be weighed against public benefits, including securing the optimum viable use.
16. Given the harm that has been identified I conclude that the public benefits would not outweigh this harm, or the conflict that the works to the balustrade would have with the statutory requirements of Sections 16 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Framework and LP Policy HE1 as they relate to the quality of development, the preservation of the fabric and setting of listed buildings, and the preservation or enhancement of the character or appearance of conservation areas.
17. I therefore conclude in respect of this part of the proposal that the works would cause harm to the special architectural and historic interest and setting of the grade II listed property, and thereby would fail to preserve or enhance the character or appearance of the East Cliff Conservation Area.

Conditions

18. The Council has not proposed any conditions in the event that I was minded to allow this appeal. I do not consider that any conditions are necessary other than the standard time limit condition and, for the avoidance of doubt and in the interests of proper planning, a condition requiring the internal works to be carried out in accordance with the approved plans.

Conclusions

19. I consider that the two parts of the proposal are clearly severable, being physically and functionally independent and that a split decision is therefore appropriate. For the reasons given above, and having regard to all other matters raised, I consider that the appeal should be dismissed in so far as it relates to the proposed glazed screens behind the original balcony railings, but should be allowed in so far as it relates to the proposed minor internal alterations including the door between the reception room and hall.

Philip Willmer

INSPECTOR

Schedule of conditions – listed building consent

- 1) The works hereby authorised shall begin not later than three years from the date of this consent.
- 2) The works hereby authorised shall be carried out in accordance with the following plans in so far as they relate to the minor alterations to internal studwork including the door between the hall and main reception room: drawings numbered MP-01, 02, 03, 04A and 07.