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## Appeal Decision

Site visit made on 26 January 2016

by **S M Holden** BSc MSc CEng MICE TPP MRTPI FCIHT

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

Decision date: 03 February 2016

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### Appeal Ref: APP/Q1445/D/15/3134765

### 44 Victoria Street, Brighton BN1 3FQ

- 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 Richard Wilson against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/01594, dated 1 May 2015, was refused by notice dated 14 July 2015.
  - The development proposed is removal of existing pitched roof to create a 13 sq.m roof terrace. Remaining flat roof to be planted with green roof 1.1m anti glare glass balustrades to be set back from front and rear by 1.5m.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. Prior to the Council's determination of the proposal, the appellant made suggestions about retaining the north gable wall as a means of overcoming the Council's concerns. However, the Council did not invite the appellant to submit an amended scheme. A revised proposal was submitted with the appeal, but this has not been the subject of public consultation or any formal decision by the Council. In view of this, and the level of public interest in the original proposal, I am unable to take the revised scheme into consideration. I have therefore determined the appeal on the basis of the plans submitted with the original application.

### Main Issue

3. The main issue is whether the proposed roof alterations would preserve or enhance the character or appearance of the Montpelier and Clifton Hill Conservation Area.

### Reasons

4. Victoria Street lies within the Montpelier and Clifton Hill Conservation Area, a densely developed urban area characterised by two and three-storey terraced dwellings, which are rendered and painted white. No 44 is a mid-terrace property. Towards the southern end of Victoria Street the houses have three storeys; immediately to the north of No 44 there is a distinct change in the roofline where the number of storeys drops to two. The proposal seeks to remove the existing pitched roof and create a roof terrace enclosed by a glass balustrade. It would include an element of 'green roof' between the edge of the building and the
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- balustrade. A new staircase would be inserted from the second floor to provide access to the terrace through a glazed hatch.
5. Government policy in respect of the historic environment is set out in the National Planning Policy Framework (the Framework). Paragraph 126 advises that historic assets are an irreplaceable resource that local authorities should conserve in a manner appropriate to their significance. Any harm that is less than substantial must be weighed against the public benefit of the proposal. Furthermore, proposals within conservation areas must meet the statutory test of preserving or enhancing the character or appearance of that area.
  6. Saved Policy HE6 of the Brighton and Hove Local Plan, 2005, is consistent with this approach and sets out a series of criteria that development within the city's conservation areas must meet. The Council's Supplementary Planning Document: *Design guide for extensions and alterations* (SPD12), adopted 2013, provides additional advice regarding the roofs of buildings within conservation areas. It advises that alterations to the shape of the roof, the use of unsympathetic materials and the loss of original features can all have a serious effect on the appearance and character of historic areas. It specifically states that consent will not be granted to remove a pitched roof to form a roof terrace.
  7. From the junction with Upper North Street and in other views from the south, the existing roof of No 44 is barely visible. It is set back behind a parapet wall and alongside the buildings to the south, which are of a similar height. However, to the north the ground rises and the buildings are not as tall. The flank wall of No 44 therefore protrudes above that of No 43. Consequently the pitched roof and its associated gable end can be clearly seen by anyone looking down Victoria Street towards Upper North Street and the sea. Although No 44 is partially attached to No 46, which has lost its original roof, this adjoining property is also linked to No 63 Upper North Street and is part of a different terrace. The visual relationship between No 44 and the terrace to the north is therefore just as important as its connection to the properties to the south, if not more so.
  8. In this context the removal of the pitched roof would result in the loss of part of the historic roofscape of Victoria Street, which is a significant heritage asset of this part of the conservation area. This would be the case notwithstanding the existing use of standard concrete tiles, since the existing character of the roof derives primarily from its form, shape and pitch rather than the materials used. The loss of the gable end, which marks the change in height of the roofs along the street and adds interest to the street scene, would be especially noticeable.
  9. Its replacement by a flat roof enclosed by glass balustrading incorporating a section of green planting would introduce an alien and incongruous feature into the area. It would fundamentally change the relationship between the existing chimney stack and the flank wall of the house. The changed profile of the house and the glass balustrade surrounding the flat roof would be visible from the street, particularly when viewed from north of the site. The parapet wall on the front elevation of the building and the introduction of new parapet walls on the northern and southern sides of the property would not obscure this change.
  10. Given the dimensions of the proposed roof terrace, it is likely that its use would result in the introduction of domestic paraphernalia, such as tables and chairs, at a high level. This would detract from the appearance of the historic roofscape. The proposal would also result in the loss of the rear chimney stack. The chimneys of the houses in Victoria Street are one of its distinguishing features. Whilst the rear

chimney stack at No 44 is less visible than the one that protrudes from the front roof slope its loss would, nevertheless, be detrimental to the historic roofscape of the terrace as a whole.

11. The appellant drew my attention to an existing roof terrace at No 46 Victoria Street. The Council approved this in 2003, Ref: BH2003/02981, as it was satisfied that the former hipped roof was not visible from the street scene. I cannot comment on this assessment, or compare that proposal with the scheme before me, as the original roof has now been removed. Nevertheless, on my site visit I could see the railings that enclose this roof terrace and consider them to appear somewhat out of character with the surrounding roofscape. The existing roof terrace is therefore not a justification for permitting something that I consider to be harmful in close proximity to it. In any event, I have determined the appeal proposal on its individual merits having regard to current planning policies, which almost certainly differ from those that were relevant in 2003. There was no evidence to confirm that other roof terraces in the vicinity have been authorised by the Council and I therefore give their presence little weight in my determination of this appeal.
12. In my view, the proposed roof alterations would be harmful to the appearance of No 44 and the wider conservation area, although in terms of the Framework this harm would be less than substantial. However, paragraph 132 of the Framework states that any harm to a heritage asset requires clear and convincing justification. Furthermore, in 2014 the Court of Appeal<sup>1</sup> re-iterated the need for decision makers to give 'considerable importance and weight' to the desirability of preserving historic assets when carrying out a 'balancing exercise' in planning decisions. Whilst I accept that the proposal would provide valuable private amenity space for this family dwelling, this does not amount to a public benefit that would offset the harm to the conservation area.
13. Taking all these factors into consideration, I conclude that the proposal would be harmful to the character and appearance of the host property, the Montpelier and Clifton Hill Conservation Area and the setting of nearby Listed Buildings, including St Mary Magdalene Church. The scheme would therefore be contrary to saved Policies QD14, HE3 and HE6 of the Brighton and Hove Local Plan, which require roof alterations to be well designed, sited and detailed, especially in areas protected for their architectural and historic interest. In addition the proposal would not accord with the specific requirements of SPD12, or the advice and guidance of the Framework regarding the conservation of historic assets.
14. For this reason, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR

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<sup>1</sup> <sup>1</sup> Barnwell Manor Wind Energy v East Northants DC, English Heritage, National Trust & SCLG, Civ 137 18 February 2014

