



Appeal Decision

Hearing Held on 11 September 2018

Site visit made on 11 September 2018

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

an Inspector appointed by the Secretary of State

Decision date: 17 October 2018

Appeal Ref: APP/Q1445/F/17/3183880

Queens Park Villa, 30 West Drive, Brighton BN2 0QU

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by P Godfrey Investment Services Ltd against a listed building enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice was issued on 9 August 2017.
 - The contravention of listed building control alleged in the notice is unauthorised internal and external alterations and additions to a Grade II listed building consisting of (i) the installation of two doors on the lower ground floor patio (opening no 3 and no 5 looking north from the street; (ii) the removal of the living/kitchen ceiling on the first floor (south-west) and (iii) the construction of patio stairs and introduction of wall coping detail on the patio (south-west).
 - The requirements of the notice are (i) remove the two external doors on the lower ground floor patio and reinstate with two windows to match the design, dimension, materials and finish of the existing windows alongside, and masonry to match the existing façade, in accordance with details submitted and approved by planning permission BH2016/05287, plan 1233.05 revision A, dated June 2014; and listed building permission BH2016/03035, plan 1233.61 revision B received 1 December 2016; (ii) reinstate the living/kitchen ceiling of the first floor flat located on the south-west of the building with flat plasterboard ceiling to a level below all of the exposed timber members in accordance with permission BH2016/005524 the approved section XX 1233-33 Rev B and (iii) remove the stairs on the south-west of the patio (closest to the driveway) and reinstate the garden wall coping detail to match the existing wall.
 - The period for compliance with the requirements is 8 weeks.
 - The appeal is made on the grounds set out in section 39(1)(c),(e),(h),(j) and (k) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Procedural Matters

1. At the hearing it was agreed that the appellant's indication that window 5 had listed building consent for the opening should be the subject of a ground (b) appeal. It was also agreed that breach of conditions associated with any previous consent is not an issue in this case. The appellant withdrew the appeals on grounds (j) and (k).

Decision

2. It is directed that the listed building enforcement notice be varied as follows:
3. The appeal succeeds on ground (c) in relation to door opening 5 and the external steps and it is directed that the listed building enforcement notice be varied by deleting "(i) remove the two external doors on the lower ground floor

patio and reinstate with two windows” and inserting “(i) remove the external door from window opening 3 on the lower ground floor patio and reinstate the window”, and by deleting requirement (iii).

4. The ground (e) appeal is allowed in part and listed building consent is granted for the new door in opening no 5 and the removal of the coping adjacent to the stair in the south-west of the patio.
5. The appeal is dismissed in part and the listed building enforcement notice is upheld as varied, insofar as it relates to (i) the installation of a door on the lower ground floor patio (opening no 3 looking north from the street) and (ii) the removal of the living/kitchen ceiling on the first floor (south-west).

Reasons

Ground (b) – Window 5

6. Some of the evidence relating to the history of this window is directly contradictory, including photographs that appear to indicate different situations at a similar time and plans where some indicate a form of door opening and others that do not. It is not possible to fully explain these contradictions from the evidence provided.
7. The appellant has uncovered permissions from the 1980s that indicate that planning permission and listed building consent was granted for a pair of doors in the position of window 5, the swings of the pair of door being clearly indicated on the plan. However, there is no other evidence that shows what the arrangement was of the approved doors or little indication of what might have been subsequently constructed other than what was there before the alleged work. The appellant indicates that a French window was there when purchased in the form of three sliding sashes that went from window head height to ground level; the bottom two sashes being raised to walk through the opening. This is supported by a letter from a previous owner, although I note she appears to suggested that window 5 and 6 were of this arrangement, which is not a case put by either main party.
8. There is a photograph of the French window with the 3 sash arrangement from the outside and one from the inside with the top sash remaining in place. There is also evidence on other drawings that door 5 was a means of escape and escape signs to it were inside the building.
9. I acknowledge that the Council’s external photograph of the front elevation taken recently suggests that all the windows are the same. However, while I cannot explain this, I would note that unfortunately the view below the windows is cut off by the retaining wall in front. The apparent lower rail and cill could be caused by alignment of rails in the sash windows. Therefore, because of the limited view I attach less weight to this. I also appreciate the note on the recent drawings that indicate the row of six sliding sash windows are to be retained and restored, although this could be considered reasonably accurate if window 5 was a French windows with the 3 sliding sashes, as the drawing does not show the cill heights.
10. Overall, on the balance of probability, I conclude that consent was given for a down to ground level opening in the position of window 5 and the opening was formed. The door swings on the plan suggest a pair of doors probably of a French door type, but there is no detail available beyond the double swing

shown. However, in all probability it appears that a French window was inserted with three sliding sashes as shown in some of the photographs, as there is no evidence to show that French doors were inserted at the position and then changed to the French window. Clearly the consented opening was formed and is lawful, but the arrangement of a single leaf door as now constructed was not consented.

11. The appeal on ground (b) partially succeeds in relation to the large opening formed at window 5, but the alleged contravention in relation to the new door has taken place.

Ground (c)

The significance and architectural and historic interest

12. The development includes the Brighton and Hove City Plan and the Brighton and Hove Local Plan. Also relevant is the Council's supplementary Planning Documents.
13. Policy CS15 indicates that the city's historic environment will be conserved and enhanced in accordance with its identified significance, giving the greatest weight to designated heritage assets and their settings and prioritising positive action for those assets at risk through neglect, decay, vacancy or other threats.
14. Policy HE1 indicates that listed building proposals involving the alteration, extension or change of use of a listed building will only be permitted where: a. the proposal would not have any adverse effect on the architectural and historic character or appearance of the interior or exterior of the building or its setting; and b. the proposal respects the scale, design, materials and finishes of the existing building and preserves its historic fabric.
15. Supplementary Planning Document SPD 09 relates to architectural features. In relation to windows it notes that altering the size and proportions of existing windows will only be permitted where the proposals relate well to, and do not disrupt, the rhythm and proportions of the overall architectural design of the building and the unity of historic groups.
16. The history of the building is set out in the list description, which was agreed by the parties. The building, Pennant Lodge, is identified as being built in 1851 with stucco wall finish and hipped and pitched roof with slate covering. The main principal elevation to West Drive is described with the low retaining wall in front. It is noted that the interior was not inspected and its history as a nursing home and then office is identified.
17. It is clear from what remains in the listed building and the appellant's evidence that the interior has been subject to considerable change and I accept that the contribution of this to the significance of the overall building is reduced, but still has some importance in terms of its contribution to the character of the building of this period. Overall I consider that the significance and architectural and historic interest relates to the age of the building, its design, detailing and components, particularly externally and this also contributes to the historic layout of the streets, with the parkland contributing to the conservation area.

Windows 3 and 5

18. The front elevation is a major feature of the building, facing out to the park and road and the spacing and proportion of the windows are an important aspect of the elevation. The design and arrangement has less imposing windows at basement and upper floor level, with the major emphasis occurring to the central floor, which is articulated by the canopy and iron railings. The symmetry, hierarchy and consistency of the windows at each level is also important in defining the style and character of the building. This hierarchy and proportion of the windows are an important aspect of the significance and architectural and historic interest. Changing the design and size of the individual windows clearly affects the consistency of the window arrangement at this level and affects the overall appearance of the front elevation.
19. However, I have found above that window 5 has been lawfully altered and while there is some question as to the infilling of it, the change of shape is authorised. To this extent some inconsistency has already occurred and the symmetry of the façade has been affected to a small extent and that has been taken into consideration.
20. I consider that the introduction of a new enlarged opening in window 3 with a new door will remove some original structure, change the hierarchy of the windows, and 'compete for attention' with the more important windows above. While the wall below the window cannot be seen at a distance, it can be seen when approaching the building and its alteration harms the significance and architectural and historic interest of the building.
21. It seems to me that the window that was inserted into opening 5 after it was enlarged to be a door was the 3 sliding sash arrangement. Clearly this arrangement was not historic and its loss did not affect the historic fabric of the building or historic arrangement. However, I consider that the three sash French window arrangement was a good design solution, ensuring the impact on the appearance of the building was minimised and maintaining the sash character and appearance. While the door provided has been carefully designed to match rails etc, it is in a single plane and does not have the articulation of a sash window and I consider that it does affect the significance and architectural and historic interest of the listed building to a small extent.
22. I conclude that the insertion of the door and opening at window 3 and the new door in window 5 does affect the building's character as a building of special architectural and historic interest, so the appeal on ground (c) fails.

Kitchen/living ceiling

23. Although questions were asked about the original ceiling, there was little evidence as to its position at the time of undertaking the office conversion, when the suspended ceiling was inserted. Whether or not the suspended ceiling was meant to be inserted below the original ceiling or the original ceiling removed is not known. However, to my mind the spaces and shapes of rooms traditionally associated with this type of building are important to its character and significance, and a horizontal ceiling would be an important part of the definition of the internal spaces set below the roof space. To remove this horizontal layer, whether or not a more recently inserted suspended ceiling, would clearly change the shape, character and appearance of the rooms and

affect the building's character as a building of special architectural and historic interest, so the appeal on ground (c) fails.

Steps/Coping

24. The insertion of the steps has little impact on the design, appearance or character of the listed building, being discretely located inside the patio area adjacent to the retaining wall. To my mind, these steps have no impact on the significance and architectural and historic interest of the listed building. However, the stone coping to the retaining wall is an important feature along the whole of the front of the building, integrating with the walls and piers around the complex, forming a prominent part of the setting for the front of the building. Removal of part of the stone coping is removal of historic fabric, which also alters the continuity of the coping between piers and affects the building's character as a building of special architectural and historic interest so the appeal on ground (c) fails in relation to the coping, but succeeds in relation to the steps.

Ground (e)

Windows 3 and 5

25. As noted above, the hierarchy and consistency of the windows at each floor level is important to the significance and architectural and historic interest of the listed building. While I accept that opening 5 is consented and has some effect on the character and appearance of the listed building, that is not sufficient to justify the insertion of another door opening in the position of opening 3. The formation of this opening in a prominent position towards the centre of the building has a considerable further impact on the consistency of the front elevation and causes harm to the significance and architectural and historic interest of the listed building.
26. I have found that the new door inserted in opening 5 does affect the significance and architectural and historic interest a small amount. However, it is the formation of the opening itself and its impact on the hierarchy and consistency of the elevation that has the most effect. The new door, while not being a traditional solution, is much better than would be the case with the double swing door as appears to have been initially consented, even if not necessarily constructed. The appearance from much of the front is limited by the door being to the far side of the entrance drive and partially obstructed by the retaining wall. Overall, the harmful impact is limited.
27. The public benefits in the high quality restoration that has taken place and securing the long term future of the building are sufficient to outweigh the small amount of harm caused by the new door in opening 5, but these together with the benefit to the occupiers in gaining direct access to the garden is not sufficient to outweigh or justify the 'less than substantial' harm caused by the new door and door opening no 3.
28. The appeal succeeds in part on ground (e) in this respect in relation to the new door in opening 5.

Kitchen/living ceiling

29. While I acknowledge that the interior of the building, because of the recent history and use of the building, is less important than the exterior, it still is

important in the understanding and appreciation of the building. I have concluded above that having the rooms without ceilings alters their character and appearance and affects their significance and architectural and historic interest. To my mind, the substantial change to the room shape by removal of the ceilings and exposing the underside of the roof causes harm and does not preserve the architectural and historic interest of the building, particularly relating to room proportions, and is unacceptable. I note the appellant's preference to have the large open space and while I acknowledge that, I do not consider it is a public benefit. I acknowledge that reuse of the building is occurring because of the quality work that the appellant has undertaken, but to my mind that can occur whether or not the ceiling is inserted at the correct level and therefore I attach little weight to this. In terms of the Framework the public benefits do not outweigh the 'less than substantial' harm that has occurred. The appeal on ground (e) fails in relation to the ceiling.

Coping

30. While there is a small loss of historic fabric in the form of the stone coping and the significance and architectural and historic interest is affected, the impact is limited in that the section of stone removed is small and there is a similar arrangement at the opposite end of the wall, so removing the short section of the coping at this end makes the arrangement symmetrical.
31. I acknowledge that there is considerable benefit to the occupiers of the two units in gaining access to the garden from the lower area and accept that considerable care has been taken in making the garden a very attractive feature in the area. The limited impact, the symmetry and improvement to the garden, which is a public benefit, are matters to be weighed in the balance. I conclude overall in relation to the removal of the small length of the stone coping that the harm is less than substantial and that the development has secured the optimum viable use, so the public benefits outweigh the small degree of harm. The appeal succeeds in part on ground (e) in relation to the coping.

Ground (h)

32. The work that is required to remedy the breaches will need careful consideration to ensure that what is undertaken is of a quality and arrangement to suit the architectural and historic interest of the building. This will take some planning, time to commission and time to undertake the work. To my mind 8 weeks is not sufficient for this, but a reasonable allowance would be 6 months. The appeal on ground (h) succeeds.

Graham Dudley

Inspector

DOCUMENTS HANDED IN AT THE HEARING

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| Document | 1 | Notification letter |
| | 2 | Enlarged copy of plan showing doors for previous applications |
| | 3 | Photographs, including appendices 6a and 9a |
| | 4 | Council's further comments – August 22, 2018 |
| | 5 | Interested party letter |
| | 6 | Roof structure drawing |
| | 7 | Attendance list |

