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## Appeal Decision

Site visit made on 26 September 2017

by **S J Papworth DipArch(Glos) RIBA**

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

Decision date: 29<sup>th</sup> September 2017

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### Appeal Ref: **APP/Q1445/Y/17/3173695**

### Flat A, 33 Cromwell Road, Hove BN3 3EB

- 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 Ms Leigh Roberts against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/02917, dated 4 August 2016, was refused by notice dated 22 November 2016.
  - The works proposed are damp proofing to the front vaults to create habitable rooms and connecting these to the original property.
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### Decision

1. I dismiss the appeal.

### Main Issue

2. This is the effect of the proposed works on the architectural and historic significance of the listed building and its setting within the Willett Estate Conservation Area.

### Reasons

3. The building is listed Grade II and the listing description is not a statement of significance in the way that a more recent one would be. The listing includes the reference 'GV' denoting group value.
4. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard 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. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Paragraph 132 of the National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. The courts have determined that considerable importance and weight should be given to harm found to the significance of listed buildings.
5. These duties are reflected in Policies HE1, HE6 and HE8 of the Brighton & Hove Local Plan, and Policy CP15 of the Brighton & Hove City Plan which are material considerations only, since section 38(6) of the Planning and Compulsory Purchase Act 2004 on the primacy of the Development Plan does not apply to

- applications or appeals for listed building consent. The Council has published Supplementary Planning Document 09 '*Architectural Features*' and Supplementary Planning Guidance BH11 '*Listed Building Interiors*'.
6. The present situation is of a flat-roofed porch containing the entrance door and hallway to the lower flat on the east side, with a kitchen extending part-way under the walkway to the front door of the main building on the west side. The pavement vaults extend across the full width of the premises and what is shown as 'store 1' and 'store 2' are under the entrance walkway and abut the kitchen. There has clearly been some earlier alteration in the basement area with evidence of a previous line of the entrance steps, some sub-division of the 'store 3' vault and possibly the infilling under the stairs.
  7. Notwithstanding this arrangement, the basement area is presented as a mainly open space as would be expected in terraced houses of this size and period. That open space is not evident along all parts of the terrace and where there has been infill to various degrees, harm to the architectural and historic interest has occurred.
  8. The proposed works would add a further flat area of roof projecting from the present porch towards the road, and a further flat area over the proposed study would partially infill a presently open part of the basement area. Whilst that infill would not be of the amount evident nearby, the addition would be uncharacteristic of the original design intention of separating such as coal delivery and storage from living accommodation. It is noted that 'coal-holes' remain in 2 of the vaults, although unlike next door to the east, no pavement ironwork remains. There would be some loss of fabric although on inspection it is unclear what previous replacement has taken place. Nevertheless, harm would be caused to the architectural and historic interest of the building through the partial infilling and flat roofs. That harm would also be apparent from public views within the conservation area, bringing about an erosion of its character and appearance.
  9. The Council has identified a separate reason for refusal over the use of fully glazed doors on the inner face of the proposed study, suggesting that solid timber doors would have been more in character with the building. Be that as it may, any such doors would have been to the vaults, and not to new work forward of that line and for a completely different purpose. It would not be unreasonable to design for light to enter the study, but the failing here is the additional roof and extended building.
  10. The proposed works to convert 'store 1' and 'store 2' to a bedroom and wet-room would not have these adverse effects as they are entirely under the walkway and do not require additions. However, their access is through an area of work that is unacceptable.
  11. Lastly, the Council express doubts over the method of waterproofing the vaults and ventilation to the wet-room, to which should be added concern over the relocation of the boiler in the porch to the hallway and the location of its flue. Works to listed buildings should be sufficiently detailed so as to allow a full analysis of the effects in order to discharge the duties under the 1990 Act, and whilst conditions can be employed to ensure essential works are carried out as proposed or to control the quality of the works, the degree to which they are used to seek missing details should be limited.

12. In this case, the missing detail of flues and ventilation could have an adverse effect on the significance of the building and call into question the basis of the design as proposed. In the absence of details at this stage, conditions would not be a safe way forward, even if all else was acceptable.
13. The treatment of vault soffites to prevent water ingress can be successfully carried out, either as a barrier or a system of lathing to control and dispose of water. While full details would have been preferable, this might have been a suitable subject for a condition, in the event of grant of consent as experience has shown that the works can be carried out without causing harm.
14. In the event, harm has been identified to the architectural and historic significance of the listed building and its setting within the conservation area. The level of harm is 'less than substantial', a differentiation required between paragraphs 133 and 134 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
15. There does not appear to be any risk of the premises falling out of their residential use in this highly accessible urban location, close to transport and other facilities. The addition of a further bedroom would provide for larger family use and that would be a public benefit as set out by the appellant. The as-yet unspecified works to control water ingress and the general care to be applied to the vaults could be a heritage benefit, and it is possible that such work would not be carried out other than where it provides additional accommodation. However, in the balance, the harm caused by the partial infilling of the basement area and the linking of the pavement vaults with the main house would not be outweighed by public benefits.
16. The proposal would fail the statutory tests in the 1990 Act and would be contrary to the aims of Policies HE1, HE6, HE8 and CP15. The harm has not been justified by benefits and for the reasons given above it is concluded that the appeal should be dismissed.

*S J Papworth*

INSPECTOR

