

## Appeal Decisions

Site visit made on 13 February 2017

**by Kenneth Stone BSc Hons DipTP MRTPI**

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

**Decision date: 01 March 2017**

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### **Appeal A: APP/Q1445/W/16/3163205**

#### **24 Eaton Place, Brighton BN2 1EH**

- 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 Lath Hamza (LAN Estates Ltd) against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/20134, dated 9 June 2016, was refused by notice dated 22 September 2016.
  - The development proposed is described as 'change of use and conversion of basement, ground and first floors from GP Surgery to 4 residential units (3 flats and 1 studio unit), including extension at east end of the site and removal of non-original overhanging ground floor projection and reconfiguration of external staircase'.
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### **Appeal B: APP/Q1445/Y/16/3163209**

#### **24 Eaton Place, Brighton BN2 1EH**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
  - The appeal is made by Mr Lath Hamza (LAN Estates Ltd) against Brighton & Hove City Council.
  - The application Ref BH2016/02135 is dated 9 June 2016.
  - The works proposed are described as 'change of use and conversion of basement, ground and first floors from GP Surgery to 4 residential units (3 flats and 1 studio unit), including extension at east end of the site and removal of non-original overhanging ground floor projection and reconfiguration of external staircase'.
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## Decisions

### **Appeal A**

1. The appeal is allowed and planning permission is granted for the change of use and conversion of basement, ground and first floors from GP Surgery to 4 residential units (3 flats and 1 studio unit), including extension at east end of the site and removal of non-original overhanging ground floor projection and reconfiguration of external staircase at 24 Eaton Place, Brighton BN2 1EH in accordance with the terms of the application, Ref BH2016/20134, dated 9 June 2016, subject to the conditions set out in the schedule at the end of this decision.

### **Appeal B**

2. The appeal is allowed and listed building consent is granted for the change of use and conversion of basement, ground and first floors from GP Surgery to 4
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residential units (3 flats and 1 studio unit), including extension at east end of the site and removal of non-original overhanging ground floor projection and reconfiguration of external staircase at 24 Eaton Place, Brighton BN2 1EH in accordance with the terms of the application Ref BH2016/02135 is dated 9 June 2016 and the plans submitted with it subject to the conditions set out in the schedule at the end of this decision.

### **Procedural matters**

3. The description of development in the planning application and for the works proposed to the listed building is taken from the original application form which was an application for both planning permission and listed building consent. The description differs from that adopted by the Council however there is no material difference in the descriptions and I have used that which the applicant applied for.
4. The appeal in relation to the works to the listed building is in respect of the Council's failure to issue a decision within the prescribed time period. Whilst the Council issued a decision notice on the 5<sup>th</sup> December 2016 in relation to the listed building consent this was after the date when a valid appeal had been received and acknowledged, 18<sup>th</sup> November 2016. That notice has therefore no effect. I have however been provided with the officer report from the Council which includes the recommendation for refusal and identifies the three grounds on which the Council sought to resist the scheme. The three grounds related firstly to insufficient information regarding the entrances to flats 1 and 2, secondly insufficient information related to ventilation, boiler flues and drainage, and thirdly that the proposed glazed balustrade to the external staircase would form an incongruous and unsympathetic feature. I have taken these as putative reasons for refusal.
5. The appellant has provided amended plans TA 888/12 rev H and TA 888/14 rev A illustrating alternative details for a metal railing for the external staircase in place of the originally proposed glass balustrade. The amended plans make minor alterations to the original scheme but do not fundamentally change the proposals. The amendments are provided in the light of the Council's Conservation Team comments. There are no significant effects on other parties and there would be no prejudice to the parties; I have therefore taken these plans into consideration in my determination of these appeals.
6. In considering these appeals I have had regard to sections 16(2) and 66(1) of the Planning (listed building and conservation areas) Act 1990 and my statutory duties to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Furthermore, as the property is located within a conservation area, I have had regard to section 72 of that Act and my statutory duty to preserve or enhance the character or appearance of a conservation area. Section 38(6) of the Planning and compulsory Purchase Act requires any determination of a planning application to be undertaken in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration in the determination of these appeals.

## **Main Issues**

7. On the basis of the above the main issues in these appeals are:
- Whether the proposed development would provide acceptable living conditions for future occupants, with regard to privacy, daylight and outlook, in relation to appeal A;
  - The effect of the proposals on the architectural and historic interest of this Grade II listed building, in relation to appeals A and B; and
  - The effect of the proposed development on the character and appearance of the surrounding area, including the East Cliff Conservation Area, in relation to appeal A.

## **Reasons**

### *Living conditions of future occupants*

8. Planning permission is sought for the conversion of the basement, ground and first floor, of this grade II listed building, from a doctors' surgery into four self-contained flats. The building is a mid-19<sup>th</sup> century end of terrace house, three storeys with an attic and a half basement. It has had a large single storey extension added to the rear and has an external staircase to an upper floor maisonette. The Council have not objected to the principle of the change of use to residential accommodation and have not refused permission in relation to the internal size of the units. For the most part the flats meet the national space standards and the level of accommodation provides for rooms of reasonable size and layout.
9. The basement level flat, flat 1, is proposed as a two bedroom unit with its main living room at the front of the property, with the main living room window being the large circular bay in a front light well. Whilst this has a somewhat restricted outlook, due to the below ground level location and width of the light well, there are still views of the sky and street level above and daylighting would be reasonable. This is further confirmed by the appellant's daylighting report. The Council accept this element of the scheme and I see no reason to disagree with it in this regard.
10. The two bedrooms for flat 1 are located to the rear of the flat and are both served by windows looking into a rear light well. The scheme would result in the demolition of a ground floor extension that presently restricts light levels in this light well which would significantly improve day light entering this area. Furthermore bedroom 1 would have an enlarged window and rear door with glazing incorporated to take advantage of the additional lighting. Bedroom 1 would be served by an existing sash window. With the proposed alterations to the boundary wall onto Chesham Road, the removal of the ground floor extension and the alterations to the fenestration I am satisfied that the light levels would be significantly improved to these rooms. The daylight report suggests that the levels would meet BRE standards. Whilst the outlook from these windows would be into a restricted lightwell/ patio there would be a degree of separation from the surrounding walls. When taking account of the nature of the basement accommodation and the improve lighting associated with the other works I am satisfied that this would not amount to an unacceptable living environment for the future occupiers.

11. Flat 3 would be accommodated in the modern single storey rear extension. This unit would be primarily single aspect with all of its primary rooms having windows directly facing onto the street. Bedroom 2 has a secondary window which would be directly adjacent to the access and external staircase. It has been suggested by the appellant that this could be obscure glazed to overcome privacy concerns related to the occupiers of flat 2 passing the window. Given that there is an alternative window this would appear a reasonable suggestion. Given the relationship with the front door of the property and the form of the access staircase the recessed location of the window would not suffer from undue noise and disturbance given the limited numbers of people that would be using the external staircase.
12. The remainder of the flat would be served by four new roof lights, windows to each of the principal rooms and glazed sliding doors to a rear patio space. I am satisfied that this would provide for adequate light levels within the flat. The windows to the main living and bedroom spaces would front onto the adjoining street from which there would be no defensible separation. This however, is little different from many other examples of windows to living spaces in the immediate areas and for flats at ground level in the surrounding areas. This is an urban area where the expectation of amenity standards for future occupants relate to not just privacy and amenity space but internal spaces and locational benefits associated with the proximity to town centre facilities and other amenities. It has been pointed out by the appellant that the Council has accepted such relationships in other locations and consistency is an important consideration in the application of policy, especially where matters of judgement are important. In this regard given the nature of such examples in the surrounding area I am satisfied that the privacy afforded for the future residents of flat 3 is not such that should warrant dismissal of this appeal.
13. The Council have not raised any concerns in terms of the living conditions that would be provided for the occupants of studio 1 and flat 2 and I see no reason to disagree with them in that regard.
14. For the reasons given above I conclude that the proposed development would not result in unacceptable living conditions for the future residents of the proposed development. Consequently it would not conflict with policies QD14 or QD27 of the Brighton and Hove Local Plan 2005 (retained policies March 2016) (BHLP) which, amongst other matters, seek to protect the amenity of future occupiers of development.

*Listed building*

15. The appeal property is part of a Grade II listed building which derives its significance from its architectural quality and historical interest as a mid-19<sup>th</sup> century terraced house representative of the style of the time. The proposed works would result in the removal of a ground floor extension on the rear of the historic building and which presently obscures the form and shape of the original building and the rear lightwell. This would result in the removal of a wall joining the rear of the building with the modern flat roofed single storey rear extension. The removal of these elements would better reveal the original shape and form of the building and better delineate between the original and the modern extension. This is a positive contribution.
16. In so removing the wall, and ground floor extension, fronting Chesham Road this will expose an existing metal staircase that provides access to an upper

floor maisonette. The original scheme sought to introduce a glass balustrade around this staircase and the detailing of this was a matter of concern to the Council. The appellant has provided amended plans to provide for a metal railing to reflect the railings proposed for the lightwell. In effect taking on board the suggestion of the Council's conservation advisor. In my view the glass balustrade was a modern intervention which would not have sat comfortably on the host building and would have been given greater prominence by the removal of the existing wall and extension. The more muted railings, to tie in with those proposed for the light well, would better reflect the treatment of such elements in the surrounding area and ensure this was a recessive element of the scheme. Taking account of the positive contribution from the removal of the existing wall and extension and the more discreet staircase detailing these elements would not be harmful to the listed building's architectural quality which would be improved by the sum of these works.

17. Whilst the elevations have a clean appearance there is a lack of detail in relation to external fixtures, pipework, ventilation etc. The proposals suggest that these would be tidied up and that there is a potential for this to further improve the appearance of the elevations of the building. Indeed the Council's conservation team suggested that additional details should be sought to ensure that the improvements were achieved and that there was no adverse effect. I am satisfied that these are minor matters that do not go to the heart of the scheme and could adequately be controlled by the imposition of suitably worded conditions. With sufficient care and attention to detail there is no reason why the details of pipe work, ventilation and drainage should not be provided for in a manner which would not affect the architectural quality and appearance of the building and hence its significance.
18. Internally the Council identify the staircase as an important original feature and I share the Council's concern that the plans are not clear as to how the subdivision would safeguard the staircase and ensure that it was not adversely affected. However, I see this as a matter of detail and provided a suitable design can be provided to safeguard the feature this should not be a bar to the development or works to the listed building. I am satisfied that this could be addressed by the imposition of a suitably worded condition.
19. For the reasons given above I conclude that the proposals would not harm the architectural or historic interest of this Grade II listed building, or its setting. The proposals would therefore not conflict with policies CP1 of the Brighton and Hove City Plan, or policies HE1 or HE6 of the BHLPP which collectively, amongst other matters, seek to protect the historic buildings and heritage assets of the City.

*Character and appearance including Conservation Area*

20. The general area is characterised by mid-19<sup>th</sup> century town houses of a similar period and style to that the subject of this application. This forms the basis of the significance of the East Cliff Conservation Area.
21. The proposals would result in minor alterations to the external appearance of the building. I have already concluded above that in respect of the impact on the listed building these would overall be positive impacts. The better revealing of the form and shape of the original building and breaking down of the long unrelieved wall along the street frontage would be a positive

contribution to the appearance of the street scene as well as the listed building. The better delineation of the building the introduction of railings would add to the interest and detailing of the building and street along this frontage and enhance the appearance of the area. The minor negative contribution of making the staircase more apparent would be offset by the positive heritage gains from the better delineation of the original building.

22. For the reasons given above I conclude that the proposed development would not materially harm the character and appearance of the area, including the East Cliff Conservation Area, the appearance of which would be preserved, if not enhanced.

### **Other matters**

23. I note the concerns of one objector that the proposal would result in the loss of accommodation that could potentially be used for alternative health and well-being facilities. However given the facilities available close by and the replacement facilities provided when the doctors' surgery closed there appears to be no immediate identifiable shortage in the vicinity that has been brought to my attention. I also note that the Council did not raise concerns on these matters and accepted that the proposal did not conflict with policy HO20 and was an acceptable exception to the policy. I see no reason to disagree with this conclusion.
24. I note that the Council's housing requirement is substantially below the identified need for the city and the appellant claim that the proposals would assist in meeting that need and therefore contribute to the social role of sustainable development. I accept that there is some merit in that position but, given the small numbers involved, do not give significant weight to that conclusion.

### **Overall conclusions and conditions**

25. I have considered the Conditions submitted by the Council and the comments of the appellant in the light of the advice in the Planning Practice Guidance.
26. In terms of the planning appeal a condition listing the approved plans is required to ensure clarity and as good practice. This includes the amended details of the balustrade submitted with the appeal. A condition requiring the re-instatement of the redundant footway is necessary for pedestrian safety once the extension has been completed and the crossover is no longer required. Cycle parking/ storage details are required to encourage alternative means of transport. A condition related to the improvement of parking spaces outside the property is required. However, I have adjusted this to require the submission and approval of a scheme for such and its implementation before occupation to ensure the condition meets the appropriate tests.
27. In terms of the listed building consent conditions are required to ensure appropriate detailed plans are provided in relation to the installation of sash windows, the proposed dwarf wall, and the external door to flat 1; all in the interests of the listed building. A condition requiring repair of damaged architectural detailing is required but that proposed by the Council is excessively wide and imprecise and that suggested by the appellant too narrow. I have therefore suggested a requirement for the provision of a schedule of repair works of damaged architectural detailing to be submitted to

and approved by the local planning authority. This is required in the interests of the listed building. I have attached a condition requiring the removal of the coach lights as they are an inappropriate feature on the building.

28. For the reasons given above I conclude that the appeals should both succeed.

*Kenneth Stone*

INSPECTOR

**Schedule of conditions for appeal A: APP/Q1445/W/16/3163205**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TA 888/01 rev A; TA 888/10 Rev H; TA 888/11 Rev F; TA 888/12 rev H; TA 888/13 Rev A; TA 888/14 Rev A
- 3) Prior to the first occupation of the development hereby permitted the redundant vehicle crossover shall be reinstated back to a footway by raising the existing kerb and footway.
- 4) Notwithstanding condition 2 no development shall take place until details of the cycle parking/storage have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and shall thereafter be retained for use at all times.
- 5) Prior to the first occupation of the development hereby permitted, parking improvements shall have been installed in Chesham Road in accordance with a scheme first submitted to and approved in writing by the local planning authority. The scheme shall include the replacement of the 4 Doctor car parking bays and double yellow lines outside the redundant vehicle crossover with car parking bays.

**Schedule of conditions for appeal B: APP/Q1445/Y/16/3163209**

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) Notwithstanding the originally submitted plans the balustrade on the external staircase shall be undertaken in accordance with the details shown on plans TA 888/12 rev H and TA 888/14 Rev A.
- 3) No works shall take place until full details of all new sash window(s) and their reveals and cills including 1:20 scale elevational drawings and sections and 1:1 scale joinery sections have been submitted to and approved in writing by the Local Planning Authority. The windows shall be single glazed painted timber double hung vertical sliding sashes with concealed trickle vents. The works shall be carried out and completed fully in accordance with the approved details and retained as such thereafter.

- 4) Prior to first occupation of the proposals hereby approved the coach lights on the main entrance shall be removed and the surfaces made good.
- 5) No works shall take place until large scale details of the proposed dwarf wall and railings have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.
- 6) No works shall take place until large scale details of the proposed ventilation extracts, boiler flues and drainage pipes have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.
- 7) No works shall take place until large scale details of the external door to flat 1 have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter. It is advised that the door should be a 4 panel door.
- 8) Prior to the occupation of the development, all damaged original architectural detailing, internal and external, shall be repaired in the traditional manner and materials to match profiles and finishes of undamaged items, in accordance with a schedule of works and in particular to include, but not limited to, the damaged balcony balustrade and area railings shall be repaired in cast iron to original details.

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