
Appeal Decision

Site visit made on 17 October 2016

by Sukie Tamplin DipTP Pg Dip Arch Cons IHBC MRTPI

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

Decision date: 24 October 2016

Appeal Ref: APP/Q1445/F/16/3154629

2 Bedford Place, Brighton BN1 2PT

- 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 Mrs Catherine Theresa Crossman against a listed building enforcement notice issued by Brighton & Hove City Council.
- The notice was issued on 7 June 2016.
- The contravention of listed building control alleged in the notice is without Listed Building Consent the erection of metal railings to the roof of the building on the eastern and western elevations.
- The requirements of the notice are:
 - I. Completely remove the railings from the east and west elevations of the roof of the property.
 - II. Make good any damage to the building using materials to match the existing.
- The period for compliance with the requirements is 12 weeks.
- The appeal is made on the grounds set out in section 39(1) (e) and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the Listed Building Enforcement Notice is upheld.

Background

1. No 2 Bedford Place is a Grade II listed three storey Regency town house and is part of a terrace of similar properties on the west side of Bedford Place. The individual houses vary in their detailing but there is a sense of rhythm and order by reason of the repeated form and composition. The houses, including No 2, have spear headed railings alongside the pavement, enclosing the lightwell and also adjacent to the flight of steps leading up to the front door. There are also cast iron decorative railings around the semi-circular balcony at first floor and thus iron railings are a feature of the terrace and the host property.
2. The detailing of the building is robust and the front elevation is topped by a cornice and parapet which completes the measured symmetry of the building and largely hides the roof beyond.

The appeal on ground (e)

Main issues

3. The main issues are the effects of the railings on the special interest of the host building and the character and appearance of Regency Square Conservation Area (the CA).
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4. The evidence is that the roof has historically been used for a roof terrace but the timber railings were removed in the 1980's following storm damage. Thus there were no railings when the house was listed in 1999. The current railings have been erected by the appellant during refurbishment work within the last three years. These have been erected on the outer edge of the flat roof, both at the front and rear of the property and thus are above the level of the finishing parapet and cornice.
5. The appellant says that the listing description of No 2 shows that the heritage merit of the listed building is mainly in the front elevation, but list descriptions of buildings, particularly those compiled many years ago, are not intended to provide a comprehensive or an exclusive record of all features of importance. The absence of a description of the roof, the rear elevation and interior does not therefore indicate that these are not of interest. The pattern and form of the Regency terraced housing are intrinsic features of the special interest of the planned development that was constructed during the fashionable expansion of Brighton.
6. In terms of the railings, the works are readily visible, both from Bedford Place and most particularly in views along the greater part of Sillwood Street to the east. They are also highly visible from Sillwood Mews which lies to the rear and intermittently from the western section of Sillwood Street. Thus they are prominent in most views of the listed building and also from a number of viewpoints within the wider CA. Moreover, because of their rooftop location, they are seen against the skyline and this undermines the architectural composition of the listed Regency house which is elegantly topped with a decorated cornice.
7. Notwithstanding this the appellant says that the railings are almost identical to those approved by the Council in August 2011 at No 5 Bedford Place. Some of the details of this approved scheme have been submitted by the appellant and I saw the railings at the site visit. However I do not agree that the circumstances are comparable for the following reasons: Firstly, I note that those railings were described as a 'replacement' and thus do not appear to be a new feature on No. 5, this factor would have been a material factor in any decision made; secondly, the western or rear railings are set back from the edge of the roof and this reduces their impact; thirdly, No 5 is located towards the middle of the residential terrace and thus any addition to the roof is significantly less prominent in wider views and from Sillwood Street in particular; fourthly, the railings that have been erected are more robust and higher quality than those in this subject appeal, and fifthly, it appears that No 5 is not listed.
8. For similar reasons I do not find that the small number of other 'roof terraces' hereabouts that have been brought to my attention are comparable to the circumstances of this case.
9. The appeal turns on its own facts and I am not persuaded that the effect of railings, which have the appearance of temporary crowd control barriers, preserves the building, or its setting or any features of special architectural or historic interest it possesses. Their flimsy character looks incongruous and inappropriate on the roof of the robust and classically proportioned town house and contrast unfavourably with the solid, historic cast iron railings at ground and first floor level.

10. I consider that the works fail to preserve the special architectural interest of the listed building at No 2 Bedford Place. Moreover because of the location of the property close to the junction of Sillwood Street, there are multiple views of the railings prominently displayed against the skyline. For this reason they have similarly failed to preserve or enhance the character or appearance of the Regency Square Conservation Area.
11. However in terms of the National Planning Policy Framework (the Framework) the harm is less than substantial¹. In such circumstances the Framework says that this harm should be weighed against the public benefits of the proposal including securing its optimum viable use. But in this case, the viable use of the host building remains unchanged and there is no demonstrable public benefit that outweighs the less than substantial harm. Accordingly, the ground (e) appeal fails.

The appeal on ground (h)

12. The appellant says that 6 months is necessary for the removal of the railings and the making good of the roof but no reasons are given.
13. However it appears to me, in the absence of any other evidence, that the railings are simply bolted to the roof structure and their removal could be accomplished within a matter of a few days. Similarly any patching or making good of the roof surface is unlikely to be extensive or time consuming.
14. For these reasons, and in view of the ongoing harm, the proposed compliance period appears to be both proportionate and reasonable. Consequently the appeal on ground (h) also fails.

Formal Decision

15. The appeal is dismissed, Listed Building Consent is refused and the Listed Building Enforcement Notice is upheld.

Sukie Tamplin

INSPECTOR

¹ Paragraph 134: The National Planning Policy Framework