

Appeal Decision

Site visit made on 12 December 2016

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 3rd January 2017

Appeal Ref: APP/Q1445/D/16/3160531

The Bungalow, 11 Hangleton Lane, Hove BN41 2FQ

- 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 Jerjes Phillips against the decision of Brighton & Hove City Council.
 - The application, Ref. BH2016/00872, dated 8 June 2016, was refused by notice dated 22 August 2016.
 - The development proposed is described as '*the demolition of a detached wall (Not part of a listed demise) within a conservation area*'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the historic character and setting of the adjacent listed buildings and the character or appearance of the Hangleton Manor Conservation Area.

Reasons

3. Notwithstanding the reference in the application description to 'demolition', the grounds of appeal explain that the proposal is to 'dismantle' the northern section of wall and use the original flints to repair the southern section. The scheme is described in more detail in the Design and Access Statement, which explains the appellant's view as to differences between the northern and southern sections of the wall as regards both their qualities and importance to the character and appearance of the conservation area. In essence it is argued that the northern section need not be retained and that the proposal would enable works to repair the more valuable and relevant southern section.
 4. However, the wall in its entirety (both the northern and southern sections and the shorter linking western section) has curtilage-listed status because of its association with the listed Rookery Cottage. As such it is necessary to have special regard to the desirability of its preservation and its setting under Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act 1990.
 5. I have noted the appellant's arguments that the northern section of the wall is not visible from the public realm, is in poor condition and because of the change in circumstances whereby it now divides the curtilage of the appeal property, it has diminished significance. However, whilst I give these comments some
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weight, particularly because in my view the size, position and design of the Bungalow have an adverse effect on the wall's setting, I nonetheless give greater weight to the comment of the Council's Heritage Officer. This is that whether visible or not, this section of the wall is of historic and evidential value because it delineates the original boundary to the Manor complex.

6. The complete removal of such a large section of wall in my judgement therefore amounts to 'substantial harm' to the significance of the asset as defined in Section 12: 'Conserving and Enhancing the Historic Environment' of the National Planning Policy Framework 2012 ('the Framework'). The Framework proceeds to explain that where a proposed development will lead to substantial harm to (or total loss of) the significance of a designated heritage asset, consent should be refused unless it can be demonstrated that the substantial harm (or loss) is necessary to achieve substantial public benefits that outweigh that harm or loss.
7. In this case there are public benefits: firstly the use of the wall's materials to repair the southern section and an undertaking to do so, which could be enforced through the imposition of a condition. Secondly there is the proper enjoyment of the Bungalow as a dwelling, which in my view is not only a private benefit to the appellant but also a public benefit. The Framework also refers the nature of a heritage asset preventing a reasonable use of the site as a relevant consideration that could contribute to the justification of its substantial harm or loss.
8. In this case the wall does to an extent restrict the reasonable use of the site by effectively severing the largest part of the garden from the building. It was evident on my visit that the appellant has young children and that the residual area of the garden to the north of the wall is of a size and shape that has little practical use for residential amenity, including children's play.
9. However, whilst I acknowledge that these benefits of dismantling the northern section of the wall's can be weighed in favour of granting permission, they are in my judgement insufficient to overcome the 'substantial harm' caused by its complete removal. It may well be that a less ambitious proposal that would secure substantially greater integration between the dwelling and the area of garden to the south of the wall without its total demolition would result in 'less than substantial harm' to the significance of the designated heritage asset and thereby enable the public benefits to prevail. However that is not the proposal before me in this appeal and would be a matter for the Council in the first instance in the event of a further application.
10. On the main issue I conclude that the proposal would have an unacceptable effect on the historic character and setting of the adjacent listed buildings and would not preserve the character and appearance of the conservation area. This would be in conflict with Policies HE1 & HE6 of the Brighton & Hove Local Plan (Retained Policies March 2016) and Section 12 of the Framework.
11. The appeal is therefore dismissed.

Martin Andrews

INSPECTOR