

Appeal Decision

Site visit made on 23 January 2017

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 27 January 2017

Appeal Ref: APP/Q1445/C/16/3148634

32 Pembroke Crescent, Hove BN3 5DD

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- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Michael May against an enforcement notice issued by Brighton and Hove City Council.
 - The enforcement notice was issued on 8 March 2016.
 - The breach of planning control as alleged in the notice is: the removal of a clay tile roof from the dwelling and its replacement with a concrete tile roof.
 - The requirements of the notice are to completely remove the red, concrete tiles from the roof of the property and replace them with plain, red, clay tiles to match in size, proportion, fixings, profile and colour those at Nos 28 and 30 Pembroke Crescent.
 - The period for compliance with the requirements is one year.
 - The appeal is proceeding on ground (a) only as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed.

Background information and relevant policies

2. In May 2015 planning permission was refused retrospectively for the replacement of the existing clay roof tiles with concrete tiles to the front roof slope of the dwelling. A subsequent appeal (APP/Q1445/D/15/3129964) against the Council's decision was dismissed.
 3. The appeal property is a two storey semi-detached dwelling on the east side of the Crescent, which lies within the Pembroke and Princess Conservation Area (PPCA). The PPCA conservation area statement, amongst other things, indicates that *'the charm of the area lies in the contrast of hard red brick and the extensive use of white painted exterior timber and the overwhelming predominance of the plain red tile'*.
 4. The relevant development plan policies are QD14 (Extensions and alterations); QD27 (Protection of Amenity) and HE6 (Development within or affecting the setting of conservation areas) of the Brighton and Hove Local Plan (BHLP). The Council's Supplementary Planning Guidance SPD12 (Design guides for extensions and alterations) is also a material consideration and both the policies and the guidance accord with the National Planning Policy Framework (NPPF) in relation to the requirement for good design and conserving and enhancing the historic environment. In reaching my conclusions I have paid special attention to the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA).
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Main issue

5. The main issue in this case is the same as it was for the previous appeal: that is, the effect of the concrete roof tiles on the character and appearance of the PPCA.

Reasons

6. Having seen the concrete tiles from both near and distant viewpoints, I share the Council's and the previous Inspector's concerns about their visual effect on the character and appearance of the area. I noted that there is indeed an '*overwhelming predominance*' of red tiles in the immediate locality and I also agree that plain red tiles continue to be one of the defining characteristic features of the PPCA. The interlocking concrete tiles result in an obtrusive and visually harmful effect within the street scene and neither preserve nor enhance the character or appearance of the area.

7. I acknowledge that the concrete tiles are the same type as those of No 34 but, as indicated by the Council, the circumstances and timing of when the works at No 34 were carried out are unknown and could, therefore, be immune from enforcement action. In any case the colours do not match, since those on the appeal property are bright red whilst those at No 34 are darker due to weathering. I note that the appellant attempted to match his roof to that of No 34 but that does not alter the fact that both roofs look completely out of place in this part of the PPCA. To allow those at No 32 to remain would also set an unfortunate precedent for the area, bearing in mind the Article 4 direction which is in place.

8. With regard to the appellant's argument that there is a '*blatant contradiction*' between the wording of the appeal decision and that of the planning officer, the reference to '*less than substantial*' in the NPPF does not mean that the harm caused is not '*significantly*' harmful. In this case the significance of this heritage asset is directly related to the consistency of materials and finishes and any variation, (as in this case and others), does, in my view, have a significant and negative impact on the PPCA. In terms of the NPPF, this harm can be defined as being '*less than substantial*' only in that the works have not resulted in a total loss of the heritage asset. But, in order to be acceptable there would have to be public benefits which outweigh the harm and there are no such benefits in this case.

9. In conclusion, and like the previous Inspector, I consider that the works carried are contrary to the objectives of the relevant policies within the BHLP, as well as to the SPD guidance. They are also contrary to the policies in section 7 and 12 of the NPPF in that the works constitute poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The LPA and the previous Inspector refused permission and there can be no justification at this stage to allow the tiles to remain. Therefore, planning permission will not be granted for the retention of the concrete tiles and the appeal fails. In reaching my conclusions I have taken into account all of the other matters raised by the Council and the appellant. These include the e-mail dated 22 December 2015 to the previous Inspector. However, none of these carries sufficient weight to alter my conclusions or to change my decision.

Formal Decision

10. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177 (5) of the Act.

Anthony J Wharton

Inspector