
Appeal Decision

Site visit made on 10 May 2017

by Rory MacLeod BA MRTPI

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

Decision date: 13th June 2017

Appeal Ref: APP/Q1445/W/16/3162962
5 Queen Square, Brighton BN1 3FD

- 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 Leslie Howell against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00082, dated 11 January 2016, was refused by notice dated 23 May 2016.
 - The development proposed is creation of a new floor from the existing butterfly roofed area to form a new living area with a small terrace.
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Preliminary Matter

1. The description of development in the heading above has been taken from the planning application form. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered to accord with the Council's description of development. Neither of the main parties has provided written confirmation that a revised description has been agreed. Accordingly, I have used the one given on the original application.

Decision

2. The appeal is allowed and planning permission is granted for the creation of a new floor from the existing butterfly roofed area to form a new living area with a small terrace at 5 Queen Square, Brighton BN1 3FD, in accordance with the terms of the application, Ref. BH2016/00082, dated 11 January 2016 subject to the following conditions:
 - 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: 081-01A, 081-02A, 081-03A, 081-04A, 081-04A, 081-05A and 081-06A.
 - 3) The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.
 - 4) The development shall not be occupied until details of the proposed glazed balustrade have been submitted to and approved in writing by the Local Planning Authority. The balustrade shall thereafter be constructed and retained in accordance with the approved details.

Main Issues

3. The main issues are the effect of the development on:

- (a) the character and appearance of the building and surrounding area, and
- (b) the historic setting of the site.

Reasons

Character and appearance of the area

4. The appeal site is a mid-terrace property comprising three storeys over a basement arranged to provide four flats. There is a butterfly roof over the second floor flat; it is proposed to create a new lounge and kitchen at third floor level for use in connection with the second floor flat. The front window would be set back to enable provision of a small terrace with a glazed balustrade.
5. The site is part of a terrace of ten properties on the western side of Queen Square that all have white painted rendered front walls, but with variations in their detailed design and roof forms. At the entrance to Queen Square on lower ground is nos. 1-2, a five storey building. The appeal site forms part of a group of four, nos. 3-6, that are stepped with the rise in land level; each has at roof level a front facing parapet wall with a short tiled roof below. At nos. 5 and 6, the parapet wall conceals the butterfly roof behind, but nos. 3 and 4 have had third floor roof additions that can be seen behind the parapet wall when viewed from street level. The remaining properties in the terrace, nos. 7-10, appear to have had roof alterations to extend vertically the main front wall to provide an additional floor. The alterations at nos. 9-10 follow a grant of planning permission on appeal.¹ There are modern offices on the opposite, eastern side of Queen Square and there is a building site at the closed northern end of the street.
6. The proposal would result in the loss of the original butterfly roof form, but this feature is not discernible from public viewpoints being hidden behind the parapet wall. Whilst the new structure would be visible over the top of the parapet wall, it would be set back behind it, to enable provision of a small terrace, and the setback would reduce its overall visibility. As such, the alteration would not be seen from the footway in front of the site, but would be visible from positions on the eastern side of Queen Square.
7. The proposed roof alteration would be similar in profile to that already constructed at 4 Queen Square. The set back from the frontage parapet wall would align with the front wall of the addition to no.4. Its roof would be higher than that at no.4 but would continue the line of established roof alterations rising to the higher roof alteration at no.7. In my opinion, the proposal would not be visually prominent or overly dominant given the set back behind the parapet wall and the limited extent of public viewpoints for the roof of the building from within Queen Square or elsewhere.
8. The alterations to the terrace over time are such that much of the original character has been lost. Assessment of the appeal proposals also has to have regard to the prevailing character of Queen Square. The development would

be in keeping with other alterations to the terrace and the evolving character of the terrace on this side of Queen Square.

9. Policy QD14 of the Brighton and Hove Local Plan 2005 is a general policy on extensions and alterations, that seeks to ensure that new development is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area. Supplementary Planning Document 12, Design Guide for Extensions and Alterations (adopted June 2013) (SPD12) notes that "where the overwhelming majority of roofs to a terrace, semi-detached pair or group of buildings have been altered, the Council may permit additions that seek to recreate some sense of unity and coherence". Having regard to my findings above, I conclude that the development would not be in conflict with Policy QD14 or with the provisions of SPD12. The development would not detract from the character and appearance of the building or of the surrounding area.

The historic setting of the site

10. The site is not within a conservation area but the planning application has been advertised as affecting the setting of Listed Buildings or affecting the character of a Conservation Area. To the rear of the site is Wykeham Terrace, a Grade II Listed Building comprising an attractive terrace of similar length and height to the odd numbered buildings on Queen Square. To the north of Queen Square is St Nicholas Church, also a Grade II listed building; this is set within a substantial churchyard that abuts the development site at the northern end of Queen Square. Both Wykeham Terrace and St Nicholas Church are included within land to the west of the appeal site that is designated the Montpelier and Clifton Hill Conservation Area. The single reason for refusal of the appeal proposals does not expressly refer to any of these heritage assets.
11. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In relation to the setting of a conservation area, the National Planning Policy Framework states that proposals that preserve those elements of the setting that make a positive contribution to, or better reveal the significance of, the asset should be treated favourably.
12. Wykeham Terrace has a distinctive roof line. From the sectional drawings submitted by the appellant, and from my site inspection, I am satisfied that the proposals would not be readily visible as a skyline feature over the Terrace from any public viewpoint such as to adversely affect the setting of this listed building. Similarly, as the higher buildings in Queen Square to the north of the appeal site effectively screen the proposals when viewed from St Nicholas Church, there would be no adverse effect on the setting of this building. The curtilages of these listed buildings frame the boundary of the conservation area with Queen Square. Having regard to my findings on the first main issue and to the relationships with adjacent land within the conservation area, I conclude that the setting of the listed buildings and of the conservation area would be preserved.

Other Matters

13. The Council has raised concerns about the high level design of the rear window to the roof addition. The occupiers of upper floor flats at Wykeham Terrace closest to the appeal site would be able to see the rear wall of the roof addition. The window would not be readily visible from any public viewpoint but given the limited separation between the rear walls of both buildings, the high level design would help to safeguard privacy for existing and future occupiers.
14. Some local residents have argued that the roof alterations at 3 and 4 Queen Square do not benefit from grants of planning permission. The evidence from the appellant is that these structures have been in existence for sufficient time to be immune from any enforcement action. These roof alterations now form part of the character of the area.

Conditions

15. The Council has suggested four conditions. The condition limiting the duration of the permission to 3 years is appropriate. That specifying which plans are approved and requiring compliance with is necessary to provide certainty. A condition requiring the use of matching finishes would ensure a satisfactory appearance in accordance with development plan policy. Given the forward position of the glazed balustrade, a condition requiring approval of its details would similarly be appropriate, but I have amended the wording of the suggested condition to accord with best practice.

Conclusion

16. For the reasons set out above, I conclude that the proposed roof alterations would not be detrimental to the character and appearance of the existing building or to that of the surrounding area. The appeal is therefore allowed.

Rory MacLeod

INSPECTOR