



Appeal Decisions

Site visit made on 12 November 2019

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 20th November 2019

Appeal A: Ref: APP/Q1445/W/19/3225682

17 Wyndham Street, Brighton, BN2 1AF

- 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 Andrew Johnson against the decision of Brighton & Hove City Council.
 - The application Ref: BH2018/03370, dated 17 October 2018, was refused by notice dated 10 January 2019.
 - The development proposed is: "Replacement of front entrance door with replica hardwood timber door, fixing of timber trellis to rear garden walls, installation of retractable awning to rear elevation (part retrospective)".
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Appeal B: Ref: APP/Q1445/W/19/3225683

17 Wyndham Street, Brighton, BN2 1AF

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Andrew Johnson against the decision of Brighton & Hove City Council.
 - The application Ref: BH2018/03371, dated 17 October 2018, was refused by notice dated 10 January 2019.
 - The works proposed are: "Replacement of front entrance door with replica hardwood timber door, fixing of timber trellis to rear garden walls, installation of retractable awning to rear elevation (part retrospective)".
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Decision: Appeal A

1. I dismiss the appeal and planning permission is refused insofar as it relates to the retention of the timber trellis to the rear garden walls and the retention of the retractable awning.
2. I allow the appeal and planning permission is granted insofar as it relates to the retention of the replacement front entrance door at 17 Wyndham Street, Brighton, BN2 1AF in accordance with the terms of the application Ref: BH2018/003370 dated 17 October 2018 and the plans submitted with it, and subject to the following condition.
 - 1) The additional mouldings and shown on drawing No AA.004 as 'proposed alterations to replacement door to match existing door' shall be added to the door within 3 months of the date of this decision.

Decision: Appeal B

3. I dismiss the appeal and listed building consent is refused insofar as it relates to the retention of the timber trellis to the rear garden walls and the retention of the retractable awning
4. I allow the appeal and grant listed building consent insofar as it relates to the retention of the replacement front door at 17 Wyndham Street, Brighton, BN2 1AF in accordance with the terms of the application Ref: BH2018/03371 dated 17 October 2018 and the plans submitted with it, and subject to the following condition.
 - 1) The additional mouldings shown on drawing No AA.004 as 'proposed alterations to replacement door to match existing door' shall be added to the door within 3 months of the date of this decision.

Procedural Matters

5. I saw at my visit that the front entrance door, timber trellis, and the retractable awning had been installed in accordance with the details shown on the submitted plans.
6. Section 8(3) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* (the Act) provides for retrospective listed building consent but indicates that this is only effective from the date of consent. As such I have replaced the term 'retrospective' in the application with 'retain' in the formal decision.

Main Issues

7. I consider the main issues are:
8. (Appeals A and B). The effect of the development and works on the special architectural and historic interest of the Grade II listed building, and on the character and appearance of the East Cliff Conservation Area.
9. (Appeal A only) The effect of the timber trellis on the living conditions of the occupiers of No 18 Wyndham Street with regard to outlook and an overbearing form of development.

Reasons

10. The appeals relate to a three-storey Grade II listed building which is part of a terrace of similar Grade II listed bay-fronted stucco properties (Nos 7-19 Wyndham Street), and is located within the extensive East Cliff Conservation Area (ECCA). It has a simple Regency design, retained original external architectural features, and has group value as a part of the terrace.
11. Whilst the ECCA includes many grand Regency set pieces of terraces, squares and crescents further east, Wyndham Street is one of the earlier narrow streets closest to the town centre where the buildings are generally modest in scale, have narrow frontages, and are built hard onto the pavement. Ornamentation is minimal and the detailing simple.
12. The appellant has described what he considers to be the significance of the building and Conservation Area in considerable detail based on the methodology set out in the Historic England 2008 document '*Conservation Principles, Policies and Guidance*'. Although this predates the Framework, with

its own definition of significance, I find no reason to disagree with the thrust of the appellant's analysis. However, significance is not solely restricted to the front elevation. Although more utilitarian in appearance and less visible from the public domain, the rear elevation reflects an attitude to the design and use of the property and also contributes the significance of the building.

13. At the statutory level the *Planning (Listed Buildings and Conservation Areas) Act 1990* (the Act) requires special regard to be given to the desirability of preserving a listed building and any features of architectural or historic interest it possesses, and for special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
14. Paragraph 193 of the revised *National Planning Policy Framework* (the Framework) says when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance. As heritage assets are irreplaceable, any harm should require clear and convincing justification.
15. The development plan includes the *Brighton and Hove City Plan Part One*, adopted 2016 (CP) and the saved policies of the *Brighton and Hove Local Plan*, adopted 2005 (LP).

Front entrance door

16. The Council's *Supplementary Planning Document 9: Architectural Features* says original doors on listed buildings must always be retained or, if beyond repair, replicated in timber. Reinstated doors must be purpose made to match traditional designs. Consent will not be granted for standard 'off the peg' doors, whatever the material.
17. The existing replacement door is of hardwood with some detailed embellishments, and the appellant says it incorporates design details very similar to those of the door which was removed including timber dentil, panel and flute details. The appellant says the door which has been removed was not original, although the Council says a very similar door is detailed as '*Brighton c.1815 in The Elements of Style: An encyclopaedia of domestic architectural details*'. It adds that the original front door would most likely have been of soft wood and that the previous lion's head knocker was also historically accurate for the period, as opposed to the current brushed stainless-steel version.
18. Nonetheless at my site visit I noticed a wide variety of door types within the Listed group Nos 7-19 Wyndham Street. These include 4 and 6 panelled plain doors, some with fanlight in the arched opening above the door frame and some without. Others have glazed panels within the door itself (of various designs) and some do not. There is clearly no overall consistency, and a lack of firm evidence before me concerning the design and appearance of the 'original' front door to this property.
19. On balance, subject to the additional mouldings as shown on the submitted plans being added to the door, I conclude that the replacement door would have a neutral effect that would preserve the special architectural and historic interest of the listed building and the character and appearance of the ECCA, causing no harm to the significance of these heritage assets. Therefore, the

question of public benefits to outweigh any harm does not arise. As such, I find no conflict with saved LP Policies HE1, HE6, CP Policy CP15, and the Framework.

Awning and Trellis – Listed building/conservation area issue

20. Further to the provisions of Section 5(2) of the Act, I consider the boundary walls enclosing the rear courtyard may be treated as part of the listed building and are thus afforded the same statutory protection. These bungaroosh walls, although altered over the years and patched with brickwork, are characteristic of this part of the ECCA, and have significance in this regard.
21. The awning is a retractable feature which, when opened, projects across the courtyard for approximately 5.0m, with a width of approximately 2.7m. The board above the awning housing projects approximately 60cms. It comprises material which is stretched between battens and operated on a pulley system.
22. The horizontal timber trellis is attached to and protrudes above the existing flint wall on three sides and encloses the small rear courtyard. It rises to a maximum height above ground of approximately 2.9m. The size and extent of the trellis and supporting frame, when combined with the lower timber planters and seat, obscure much of the curtilage listed wall. As with the awning, the fixing of the trellis has penetrated the historic fabric of the walls.
23. I accept that the awning and trellis may well be considered temporary structures, and that any damage to the historic fabric could be reversed should a future occupier choose to remove them. Nonetheless, the awning, trellis and their means of attachment to the building and walls are somewhat intrusive and unsympathetic features which add clutter on the rear elevation and within the enclosed courtyard. In my view their retention would have a detrimental effect on the building's aesthetic and architectural qualities and its immediate setting. They also adversely affect how the significance of the building is read and understood.
24. The Framework makes it clear that when considering the impact of a proposal on the significance of a heritage asset, great weight should be given to its conservation. Significance can be harmed or lost through alteration of the heritage asset, and as they are irreplaceable, any harm should require clear and convincing justification. For the reasons given above, I consider the proposal would result in harm being caused to the significance of the Grade II listed building and the character and appearance of the ECCA. Whilst the harm would be less than substantial in Framework terms, it would nonetheless be significant, and any harm caused to a designated heritage asset is a matter that attracts considerable weight and importance.
25. In such situations this harm should be weighed against the public benefits of a proposal. I do not doubt that the awning provides shade and protection from the weather, and the trellis affords extra privacy. As such, they clearly enhance the appellant's enjoyment of the property. However, leaving aside whether this can be regarded as a public benefit, it has not been shown that the continued occupation of the dwelling is in any way dependant on these features. As a consequence, what public benefits there might be are not sufficient to outweigh the harm that would be caused. I find that these elements of the scheme would conflict with saved LP Policies HE1, HE6, CP Policy CP15, and the Framework.

Trellis - Effect on living conditions issue

26. Whilst I accept that the trellis has been designed in order to be subordinate in height to a neighbouring trellis fence at No 16, the Council's concern relates to its impact on the living conditions of the occupants of No 18 on the south side. Due to the sloping terrain No 18 is situated at a lower level and has ground floor windows on the rear 'outrigger' facing towards the appeal site. Although the existing walls already affect the outlook from the windows and courtyard of No 18, this would be considerably worsened by the trellis addition, and would be unacceptably dominant and overbearing.
27. As such, I conclude on this issue that the trellis would be harmful to the living conditions of the occupiers of No 18 Wyndham Street in terms of outlook and an overbearing form of development. There would be conflict with saved LP Policy QD27 which seeks to resist loss of amenity to existing and/or adjacent occupiers.

Conclusion

28. I consider the various elements of the proposal are clearly severable, being both physically and functionally independent. I therefore propose to issue a split decision in this case.
29. For the reasons given above, and having regard to all other matters raised, I conclude that the appeals insofar as they relate to the retention of the replacement front entrance door should be allowed, subject to the imposition of a condition suggested by the Council requiring the addition of mouldings and other details shown on the submitted plans.
30. For the reasons given above, and having regard to all other matters raised, I conclude that the appeals insofar as they relate to the retention of the awning and trellis should be dismissed.

Nigel Harrison

INSPECTOR