



Appeal Decision

Site visit made on 19 November 2019

by C J Leigh BSc(Hons) MPhil MRTPI

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

Decision date: 29 November 2019

Appeal Ref: APP/Q1445/D/19/3236872

41 Denmark Villas, Hove, BN3 3TD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Colin Christie against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/01823, dated 16 June 2019, was refused by notice dated 29 August 2019.
 - The application sought planning permission for alterations to rear elevation including replacement of existing first floor balcony with Juliet balcony & installation of new bi-fold doors to ground floor without complying with a condition attached to planning permission Ref BH2017/04040, dated 6 March 2018.
 - The condition in dispute is No. 3 which states that: All new windows and doors at first floor level shall be white painted timber and shall be retained as such thereafter.
 - The reason given for the condition is: In the interests of the character and appearance of the building(s) and the visual amenities of the area and to comply with policies QD14/HE6 of the Brighton & Hove Local Plan and CP12/CP15 of the City Plan Part One.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect that removing Condition 3 would have on the character and appearance of the building and the wider Denmark Villas Conservation Area.

Reasons

3. The planning condition in dispute was attached to the grant of permission BH2017/04040 to provide control over the materials for the new fenestration at first floor in the rear elevation. The appellant wishes to replace an old window and door at that level, and the Council do not raise any objection to that in principle. It is the materials to be used that is the point of conflict: the appellant wishes to use uPVC, rather than painted timber as required by Condition 3.
4. The appeal site lies within the Denmark Villas Conservation Area. Under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The Area is characterised by substantial Victorian Italianate villas, with hipped slate roofs and rendered

walls. The quality of detailing in the buildings, and general homogeneity in architecture, contribute positively to the character of the area. The significance of the Conservation Area as a designated heritage asset derives from these features and the consistency in appearance.

5. The approved works to the appeal property have seen the installation of modern doors on the ground floor, using aluminium. This design of the door and use of materials has little effect on the character and appearance of the Area, or the quality of the house itself, due to the limited visibility of the doors being at ground floor and well-screened. I also saw that many other properties have alterations to their fenestration at ground floor, and so the modern doors fit within that character.
6. The use of uPVC at first floor would be a different matter. Although there are some incidents of modern materials at first floor and above in the Area, those examples are relatively scarce. There is a far stronger character of timber windows at upper floors, and these are visible from neighbouring properties and from public views. The use of uPVC would not be a suitable material in these views, due to the poorer quality in appearance compared to traditional painted timber; indeed, the existence of some other uPVC windows in the Area illustrate to me the adverse visual impact of such material, and so is not a good example to follow.
7. There would be fleeting glances of the window from the west, on Goldstone Villas. Together with views from neighbouring properties I consider the removal of Condition 3 would lead to the use of materials for first floor windows and doors that would be harmful to the character and appearance of the host building and to the Denmark Villas Conservation Area. The proposed development would therefore conflict with Policies QD14 and HE6 of the Brighton & Hove Local Plan (2005), and CP12 and CP15 of the Brighton & Hove City Plan Part One (2016), as well as Section 16 of the National Planning Policy Framework. Thus, there would be harm to the significance of the conservation area as a heritage asset, and I attach considerable importance and weight to this harm. That harm would be less than substantial and so must be considered against the public benefit of the proposal.
8. The appellant states that the works would see the replacement of an existing window that is of poor quality and leaks. However, I cannot see that those objectives can only be achieved through the use of a uPVC window rather than timber, and so there is little evidence that suggests the proposal is necessary to secure the optimum viable use of the building. I therefore conclude that there are no public benefits arising from the proposed works that would outweigh the harm identified. My conclusions thus remain the same on the main issue, and the appeal is dismissed.

C J Leigh

INSPECTOR