
Appeal Decision

Site visit made on 18 November 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2020

Appeal Ref: APP/Q1445/Y/19/3229749

Marlborough House, 54 Old Steine, Brighton BN1 1NH

- 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 David Squair, RDF Group, against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/00238, dated 28 January 2019, was refused by notice dated 27 March 2019.
 - The works are described as bird spikes omitted when the building was repainted 18 months ago in 2017. This omission has resulted in serious degradation of the parapets and tops of the walls seriously impinging on the paint work and appearance of the building.
-

Decision

1. The appeal is allowed, and listed building consent is granted for bird spikes on the raking cornices of the pediments and on the parapet of the front elevation of Marlborough House, at 54 Old Steine, Brighton BN1 1NH, in accordance with the terms of the application Ref BH2019/00238 dated 28 January 2019, and the plans submitted with it.

Preliminary Matters

2. At the time of my site visit the works had been completed. Though bird spikes appear on more surfaces than sought in the application, I have determined the appeal on the basis of the submitted drawings. For the sake of precision, I have adjusted the description of the works to reflect that given in the decision notice and appeal form.
3. As the proposal concerns a listed building in a conservation area, I have had regard to sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). An application for costs was made by Mr David Squair against Brighton & Hove City Council. This application is the subject of a separate decision.

Main Issue

4. The main issues are:
 - whether the proposal would preserve the building, listed grade I, and any of the features of special architectural or historic interest that it possesses; and,
 - whether it would preserve or enhance the character or appearance of the Valley Gardens Conservation Area (CA).
-

Reasons

The listed building and the CA

5. The house was built in around 1765 and enlarged and remodelled by Robert Adam in 1786. It is described by the Council as a Palladian Great House in miniature. They report its reference in Pevsner as the finest late C18 house, or rather, villa, in Brighton. Insofar as this appeal is concerned, the significance of the listed building is the graceful opulence of the Adam façade, and most notably the detailing of its individual classical elements as well as the aesthetic balance and order of their arrangement in the elevation.
6. The house forms a commanding part of the enclosure of the public gardens, reflecting the patterns of development shared by the buildings in the CA, but retaining the variety of design approaches and craftsmanship which enriches the significance of the CA, distinctive for its architectural eclecticism and the quality of its townscape.

The effect of the proposal on the listed building

7. Given the non-mechanical fixing method of the strips of anti-perch spikes, the risk of harm to the fabric of the building is very limited. The main effect is from the visual impact of the spikes on the building, most particularly given their relatively small size and inconspicuousness from a distance, in close range views of the building.
8. The spikes on the raking cornices and central parapet section are viewed largely against the fine, grey texture of the main roof, behind. This lack of contrast in background diminishes the conspicuousness of these spikes to the point that they are difficult to perceive.
9. The number of spikes in the application which can be viewed in higher contrast against the white background of the building, or directly against the tone of the sky is extremely limited. Nonetheless, the spikes in these areas where contrast is high, do have some prominence. I note that the strips have been neatly and carefully installed. However, because of their close spacing to one another and their multi-directional angles, in these locations the spikes clutter the unfettered, flowing lines of the modelling in the elevation and disrupt the harmonious order of its classical language.
10. Moreover, it is apparent from the spikes on neighbouring buildings that litter can accumulate between spikes, and their consistent angling can be displaced by contact. This would increase the prominence of the spikes over time, for which there is no maintenance or management plan proposed.
11. I have noted the alternative sprung wire, anti-perching system mentioned by the Council. However, while the wires of such systems are less obtrusive than spikes, their springs and stanchions are commonly thicker than spikes and usually require plugging whereas spikes can be removed without harm to the building fabric. I conclude that there has been some limited harm, in the language of the National Planning Policy Framework less than substantial, to the significance of the façade of the building and its special architectural interest.

The effect of the proposal on the CA

12. I have had regard to my duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA, to the distinctive architectural eclecticism and high quality of townscape of which this building makes a significant contribution. I have identified harm from the spikes to the street façade of the listed building.
13. While because of their close confinement within the façade of the building there would be no direct harm to the setting of the neighbouring listed buildings, the appeal building contributes significantly to the sum of architectural and historic interest of the whole CA, particularly the order and arrangement of the facades of the buildings which form frontages within it.
14. I have taken into account that the spikes have only limited prominence in the CA, notably in close range public views from the street. Also, I have noted the examples of other historic buildings which have anti-perching spikes. However, most are not comparable to the location of those on this building or they indicate the adverse visual effect on façades where there is high contrast.
15. Against the scale of the group of buildings and the street, I acknowledge the degree of harm to the significance of the CA would be very limited, and certainly less than substantial in Framework terms. Nonetheless, the Act requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the CA, against which test, the effect of this proposal on its appearance, fails.

Planning balance

16. The Framework requires that where less than substantial harm to the significance of a designated heritage asset is identified, the harm should be weighed against any public benefits. The surfaces to which the spikes have been applied have been protected by painting. Without details of the materials of the facade of the building and substantive evidence of the previous damage from bird fouling or risk from future corrosive effects, the weight I can give to the prevention of damage to the fabric of the building as a public benefit is limited.
17. Notwithstanding this, it is clear from site photographs that the parapets and raking cornices now protected by spikes have been used for perching and have been heavily fouled in the past, causing discolouration and accumulation of organic matter on the surfaces which detract from the white appearance of the façade. These are consistent with the parapet of the neighbouring building to the south, which has a similar height and position, and which I saw at my site visit was used by pigeons for perching, and is similarly discoloured.
18. In my view, the spikes have reduced the risk of harm to the appearance of the façade of the building which would otherwise occur without them, and to this end they sustain its architectural significance and the appearance of the CA. This public benefit is sufficiently significant that, even accounting for the considerable importance and weight applied to the desirability of preservation implied by the Act, it outweighs the very modest harm identified.
19. I conclude, therefore, that in the planning balance, the works will preserve the special interest of the grade I listed building as well as the setting of the neighbouring listed buildings, and the character and appearance of the CA. It

satisfies the requirements of the Act, paragraph 192 of the Framework, and the policies of the development plan insofar as relevant.

Conclusion

20. As the works have been completed, there is no need for a start condition. The Council identifies no other conditions and I have no reason to disagree. For the reasons above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Patrick Whelan

INSPECTOR