



Appeal Decision

Site visit made on 17 December 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 16 January 2020

Appeal Ref: APP/Q1445/Y/19/3236450

Flat 1, 36 Brunswick Square, Hove BN3 1ED

- 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 Marek Rudy against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/00149, dated 17 January 2019, was refused by notice dated 5 June 2019.
 - The works proposed are internal alteration to remove non-load bearing partition stud wall between living room and kitchen.
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Decision

1. I dismiss the appeal.

Reasons

2. The property is listed Grade I and the main issue is the effect of the works on the architectural or historic significance of the building. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the primacy of the Development Plan do not apply to applications and appeals made under the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 16(2) of the latter Act requires special regard to be had to the desirability of preserving the listed building or its setting or any special architectural or historic features it possesses. These duties are reflected in Policy HE1 of the Brighton and Hove Local Plan on listed buildings and Policy CP15 of the City Plan Part One on heritage. Local Plan Policy HE4 has also been cited in the Reason for Refusal and this seeks the reinstatement of original features on listed buildings as an enhancement.
3. The Council has supplied Supplementary Planning Guidance '*SPGBH 11 Listed Building Interiors*' which among other matters refers to the need to respect the original plan form and to ensure that it remains 'readable'.
4. Paragraph 193 of the 2019 National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation; the more important the asset, the greater the weight should be. Being listed at Grade I means that this asset is of particular importance.
5. The Council refer to number 36 as having been affected by its conversion to flats and other internal alterations, but that it retains many original architectural features which are important to its significance. The previous works appear to include the formation of a corridor within the flat to link front

- and back separate from the common-parts stair compartment serving upper flats. It is clear from photographs and information supplied by the appellant that the plan form of front and back rooms was in place and that should be regarded as a feature of architectural and social significance.
6. The nature of the dividing wall as evidenced in the appellant's photographs casts substantial doubt as to its historic interest as fabric. These photographs show a series of widely-spaced studwork timbers and noggins, with plasterboard fixed to them on both sides. There are however signs of lathes having been attached to the uprights at one time, although this is not conclusive as to age. Certainly, the evidence is that this was a non-loadbearing infill, and the provenance of the arch to the rear and flat soffite to the front is unclear.
 7. Both rooms do however retain cornice mouldings, and those to the front are more elaborate than those to the rear indicating a hierarchy of use, and hence that some form of separation would have been expected. Whether that was a door or folding screen rather than a solid wall appears unclear also. The Supplementary Planning Guidance on interiors does state that *'the front rooms are usually the largest and most important rooms, particularly on the principal ground and first floors. In many cases the principal front and rear rooms were linked by a wide opening with a timber or plaster architrave or classical surround which was fitted with folding panelled doors'*.
 8. The arrangement seen at the site inspection was of a wide opening between front and back, with a limited pier to the staircase side and a wider one to the party-wall side. The central position of the window to the rear room and the complete cornice moulding may indicate that the room retains its original plan form, as there was likely a link to the closet wing within the stair compartment. In that case the opening would appear to be off-centre. Be that as it may, the opening now is over-wide and lacks sufficient evidence of the original plan form, such that harm has been caused to the historic and architectural significance of the building, contrary to the statutory test in the 1990 Act and the Development Plan policies and Guidance as material considerations.
 9. The level of harm would be 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
 10. There do not appear to be any public benefits, but the Council's stated willingness to work with the appellant to find an acceptable solution that retains the appellant's desired link from front to back, as referred to in the e-mail of 23 July 2019, adds weight to the conclusion that the works as carried out are unacceptable and unjustified. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR