



Appeal Decision

Site visit made on 11 May 2022

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State

Decision date: 20 May 2022

Appeal Ref: APP/Q1445/F/21/3282783

The properties at 63 and 65 The Drive, Hove, BN3 3PF

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
 - The appeal is made by 63-65 The Drive Hove Company Limited against a listed building enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice, numbered ENF 2020/00520, was issued on 4 August 2021.
 - The contravention of listed building control alleged in the notice is the installation of railings along the front boundary walls of the property.
 - The requirements of the notice are: remove the railings from the front boundary of no. 63 and 65 The Drive and restore the wall to its former appearance as shown in appendix A attached to the listed building enforcement notice.
 - The period for compliance with the requirements is two (2) months.
 - The appeal is made on the grounds set out in section 39(1)(e) and (f) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. It is directed that the listed building enforcement notice be corrected by the insertion of the word '*Company*' between '*Hove*' and '*Limited*' in the first line of the paragraph headed '*this notice has been served on*'. Subject to this correction, the appeal is dismissed and the listed building enforcement notice is upheld, and listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Preliminary Matters

2. An appeal on ground (f) (that the notice was not properly served) has been made because the appellants state that their company is actually registered as '63-65 The Drive Hove Company Limited' although on the listed building enforcement notice it is addressed as '63-65 The Drive Hove Limited'. The appellants have not been disadvantaged by this inaccuracy and have been able to lodge their appeal successfully. I have noted the error and corrected the notice accordingly.

Main Issues

3. I consider that there is one main issue in this case: the effect of the works on the special architectural and historic character of the listed building and its setting within The Drive Conservation Area.

Site and surroundings

4. The appeal properties are two substantial grade II listed Victorian villas, built by the architect William Willett who was responsible for the design of other such properties in the surrounding area, including many within the eponymous Willett Conservation Area which completely surrounds The Drive Conservation Area. The design style of Willett's villas is sturdy, yet highly ornamental and nos. 63 and 65 are described in detail in the listing description, which also specifically includes the front walls and piers.
5. It is agreed that most of the Willett properties originally had ornate cast iron railings between the stone-capped brick piers on their front boundaries. Many have now been removed but there still a considerable number of examples to be seen in the surrounding area.
6. The appeal properties have had slim finial capped metal railings installed between the piers. There are also modern hoop-topped railings, protecting the tops of the basement areas and front steps, which are set further back into the site.

Reasons

7. Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision takers to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest, before granting listed building consent. As the site lies within the Drive Conservation Area, I am also required to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
8. I note that the Drive Conservation Area Character Statement states that the re-instatement of railings would be an enhancement to the surroundings and the appellants consider that the works subject to the listed building enforcement notice would serve this function and also be an enhancement to the listed buildings.
9. However, the front boundary railings, whilst of a plain and generally inoffensive design, do not reflect the robust and flamboyant detailing of the villas. In contrast, they look frail and also serve to emphasis the equally flimsy appearance of the other railings on the site. Consequently they detract from the design character of the villas, harming their significance.
10. There are numerous remaining examples of original railings on nearby properties that serve as an indication of how those of the appeal properties would have appeared. On my site visit, I saw examples of these in the lower section of The Drive, as well as Cromwell Road, Tisbury Road and Wilbury Road.
11. Whilst these are outside The Drive Conservation Area, they are nonetheless within the Willet Conservation Area and contribute to the general character of the surroundings and the listed villas within them. These railings have intricate patterns and their black-painted, thicker-profiled sections stand out well against the yellow stock brickwork of the villas. In this part of The Drive no original railings remain nearby and the new railings only serve to draw attention to this omission, meaning that the contrast between their design and that of the listed buildings is all the more noticeable.

12. It is also the case that, if listed building consent were to be granted for them, it could set a precedent for the use of these inappropriate inserts in the surrounding area. It would then be difficult for the local planning authority to ensure that the historic interest of the listed villas is maintained and character and appearance of the Conservation Area is preserved or enhanced.
13. The railings erected on the appeal site lack the finesse and bold detailing of the originals and, in my view, fail to preserve the historic character and architectural interest of the listed buildings, detracting from their original design. This is contrary to the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 which are reflected in heritage policies HE1, HE3 and HE6 from the Brighton & Hove Local Plan (retained policies March 2016).
14. The appellants submit that the present condition of the walls, with no railings, is harmful to the listed buildings and the installation of the new railings is therefore an enhancement. I agree that the reinstatement of railings that complement the style and age of the properties would be a positive change, but those that have been used on the appeal site fail to do this. Therefore, for the reasons set out above, I consider that the new railings themselves are causing harm and are consequently not an improvement to the current situation.
15. I also note the appellants' claim that the railings are necessary on the grounds of health and safety, to stabilise the brick piers, but I doubt that this is the case. In my professional opinion, if tree roots are creating 'heave' that is causing the brickwork of the wall and piers to collapse, railings such as this are unlikely to prevent it.
16. I am not suggesting that any new railings should necessarily exactly replicate the original design but any modern inserts should still be in harmony with the overall design style of the listed building. In any event, the Council has suggested an alternative solution that it considers suitable, should the appellants wish to apply for consent to re-instate an alternative scheme subsequent to complying with the notice.

Conclusion

17. For the reasons given above I conclude that the appeal should fail.

Katie Peerless

INSPECTOR