



Appeal Decision

Site visit made on 4 June 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2024

Appeal Ref: APP/Q1445/Y/23/3325871

Basement Flat, 3 Vernon Terrace, Brighton & Hove BN1 3JG

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr Edward Meade against the decision of Brighton & Hove City Council.
 - The application Ref is BH2023/01123.
 - The works proposed are the removal of a redundant internal staircase.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an application for listed building consent for proposed works. In determining the appeal, in accordance with section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have paid special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Main Issue

3. The main issue is whether the proposed works would preserve the Grade II listed building, Numbers 1-6 and Attached Railings, 1-6 Vernon Terrace, or any features of special architectural or historic interest that it possesses.

Reasons

Special interest and significance

4. The appeal property comprises the basement level of a mid-terraced building known as 3 Vernon Terrace. It forms part of a Grade II listed building¹ comprising Nos 1-6 Vernon Terrace. The building dates from around 1860.
5. The appeal building forms part of a prominent row along Vernon Terrace. It is finished in stucco with parapet roofs and first floor projecting balcony structures. The appeal building, and the wider row, is set back behind small forecourts with iron railings along party boundaries and around sunken lightwells. The evidence before me, together with my observations on-site, suggests that several significant changes have occurred to the appeal building over time, including its subdivision into multiple dwellings. This has, to some extent, degraded the integrity and heritage merit of the property as part of the listed building.

¹ List Entry Number: 1381070

6. Based on the evidence before me, the listed building's special interest and significance is largely derived from its historic and architectural interests. Important contributors in these regards, which are pertinent to the appeal, are the architectural composition of the appeal property's primary elevation, its integral relationship with the wider terrace, the use of traditional construction techniques and materials and surviving historic fabric. The building also has group value with nearby listed properties.

Appeal proposal and effects

7. The proposed works seek to remove the existing internal staircase. The staircase is accessible but is technically redundant as the basement and ground floor levels have been severed in the past to create two separate apartments. As a result, the basement and ground floors no longer fully reflect the building's original plan or unadulterated historic fabric.
8. Irrespective of this, the proposed works would result in the loss of intact historic fabric, in particular the historic staircase. I have insufficient information before me to demonstrate the precise age of the staircase or to fully understand the effects or extent of any harm as a result of its removal. It is for the appellant to provide such evidence. The staircase, despite its current lack of functional purpose, also continues to illustrate the historic floor plan and hierarchy of internal spaces and circulation through the building.
9. I acknowledge the appellant's comments in respect of the condition of the staircase, including a broken bottom tread. I observed that there are also other signs of damage to the staircase, some possibly due to the previous boxing-in of the structure. Nevertheless, this does not sufficiently demonstrate that the surviving fabric needs to be removed. Information is required to fully understand the condition of the historic fabric and whether it would be appropriate for it to be removed or repaired. Without clarification, it is not possible to satisfactorily demonstrate that the proposed works would preserve the special interest of the listed building and not cause harm to its significance. In any case, the entire removal of the staircase would compromise the legibility and integrity of the listed building as a whole.
10. Overall, I conclude that the proposed works would fail to preserve the Grade II listed building, Nos 1-6 Vernon Terrace, or any features of special architectural or historic interest which it possesses, contrary to the requirements of section 16(2) of the Act. The works would also conflict with the relevant provisions of Policy CP15 of Brighton and Hove City Plan Part One (CPP1, 2016) and Policy DM27 of Brighton and Hove City Plan Part Two (CPP2, 2022). These policies, in summary, seek to protect heritage assets. Consequently, the proposal would harm the significance of this designated heritage asset.

Public benefits and balance

11. Paragraph 205 of the 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. Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.

12. With reference to paragraphs 207 and 208 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the extent of the works relative to the listed building, I find the harm to be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, paragraph 208 advises that this harm should be weighed against the public benefits of the development, which includes securing the asset's optimum viable use.
13. Economic benefits would be brought about through the construction phase and the general investment into the property. However, the scale of those benefits is short-term and very limited by the extent and nature of the proposal. The primary outcomes of the proposed works, namely the increase to living accommodation, would be a private benefit to the appellant that does not provide clear and convincing justification for allowing the appeal.
14. I acknowledge the appellant's comments in respect of safety, both in terms of obstruction and fire risk. I have also seen the letter from Paul Coggins Plumbing Ltd. In respect of obstruction, it appears that the staircase was, until recently, boarded up and out of sight, such that it would not cause an obstruction when moving through the property. There is no reason before me why this should not be the case again, if so desired. I have been presented with no details or proposals for the alleged fire safety works that are raised by the appellant. Nor is there any substantive evidence before me to indicate the building poses a particular fire risk due to the presence of the staircase, or that proposed fire safety works could not be installed with the staircase in-situ. Consequently, these matters do not provide clear and convincing justification for allowing the appeal.
15. Conservation is an active process of managing change to heritage assets in ways that sustain, reveal or reinforce their heritage interests. I am not persuaded that the scheme before me is fundamentally necessary to secure the optimum viable use of the building, which provides reasonable levels of accommodation. Moreover, no substantive evidence has been put before me which verifies that the property would not be useable or viable as a dwelling now or in the future, or that its conservation as a designated heritage asset would be at risk, if the appeal was to fail and the proposal, as submitted, was not implemented.
16. Overall, the weight that I ascribe to the public benefits that would accrue from the proposal, is not sufficient to outweigh the considerable importance and weight that I attach to the harm I have found. Accordingly, the proposed works would fail to preserve the Grade II listed building, Numbers 1-6 and Attached Railings, 1-6 Vernon Terrace, or any features of special architectural or historic interest which it possesses, contrary to the requirements of section 16(2) of the Act, CPP1 Policy CP15 and CPP2 Policy DM27, and the relevant provisions within the Framework, which seek to conserve and enhance the historic environment.

Other Matters

17. I note the appellant's comments in respect of the Council not visiting the appeal property and concerns about its communication. Be that as it may, I have visited the property. The Council's actions do not lead me to change by

conclusion on the main issue. Moreover, any dispute in respect of unreasonable behaviour would be better dealt with under an application for costs.

18. That the Council's Building Regulations department are said not to have any objection to the removal of the staircase is noted, however this does not overcome or outweigh the harm identified.
19. My attention is drawn to neighbouring basement flats which, I am told, do not feature similar staircases. The appellant also raises questions around the original conversion of the building into multiple dwellings. However, I have no substantive evidence before me to draw comparisons between those neighbouring flats and the scheme before me, including the planning history there. In respect of previous conversion works, such a scheme is not before me. I am assessing the appeal for internal works at the appeal property only.
20. The appeal property is also located within the Montpelier and Clifton Hill Conservation Area (the CA). In line with section 72(1) of the Act, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA. Bearing in mind the position, nature and extent of the proposals, I consider that they would have a neutral effect on, and would therefore preserve, the character and appearance of the CA as a whole. As such, the proposal would not harm the significance of this designated heritage asset. I note that the Council had no concerns in these respects either. Nevertheless, the lack of harm in this respect does not weigh for or against the appeal and does not alter my conclusion on the main issue.
21. Reference has been made to the effect that there would be a possible interference with the human rights of the appellant and their family under Article 8 of the Human Rights Act 1998 if the appeal were dismissed. Article 8 deals with the right for respect for family life and the home.
22. I have found that the works would be harmful to a designated heritage asset. This relates to proposed internal works to a listed building. There is no substantive evidence before me to indicate that in dismissing the appeal, this would prevent the use or enjoyment of the existing dwelling. Dismissing this appeal would not be a disproportionate interference with that right. I do not consider that dismissing the appeal would discriminate in any way against the appellant or their family. On this basis I do not consider that my decision would represent an interference with these rights.

Conclusion

23. I have identified that the proposed works would be contrary to the requirements of section 16(2) of the Act, CPP1 Policy CP15 and CPP2 Policy DM27, and the relevant provisions within the Framework, which seek to conserve and enhance the historic environment. Accordingly, I conclude that the appeal should be dismissed.

A Price

INSPECTOR