



Appeal Decisions

Site visit made on 25 June 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 July 2024

Appeal A: APP/Q1445/W/24/3340014

The Garden Villa, 11C Montpelier Villas, Brighton BN1 3DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ray Bullock against the decision of Brighton & Hove City Council.
 - The application reference is BH2023/03066.
 - The development proposed is erection of single storey side extension at first floor level.
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Appeal B: APP/Q1445/Y/24/3340013

The Garden Villa, 11C Montpelier Villas, Brighton BN1 3DG

- 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 Ray Bullock against the decision of Brighton & Hove City Council.
 - The application reference is BH2023/03067.
 - The works proposed relate to the erection of single storey side extension at first floor level.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. The appeal property relates to a Grade II listed building. The appeal site forms part of the setting of nearby listed buildings and lies within a Conservation Area. As a result, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. To the north-east of the appeal site is a Grade I listed church, which is known as 'Church of St Michael and All Angels and attached walls' (Ref: 1381083). The Church of St Michael and All Angels dates back to the mid-19th century. I have had special regard to the desirability of preserving the setting of the listed building in the determination of this appeal and I am satisfied that there would be no harm to the special interest of this listed building through changes to its setting.

Main Issues

5. The main issues are:

- whether the proposal would preserve a Grade II listed building, known as 'Numbers 11 and 12 and attached railings and piers' (Ref: 1380094) (Nos 11 & 12), and any of the features of special architectural or historic interest that it possesses;
- whether the proposal would preserve the setting of the nearby Grade II listed building, known as 'Numbers 70-74 and attached railings' (Ref: 1381585) (Nos 70-74);
- the effect of the proposal on the character and appearance of the surrounding area, having particular regard to the Montpelier and Clifton Hill Conservation Area;
- the effect of the proposed extension on the living conditions of the occupants of 71 and 72 Montpelier Road (Nos 71 & 72), with particular reference to enclosure.

Reasons

Listed building (Nos 11 & 12)

6. Nos 11 & 12 are Grade II listed and date back to the mid-19th century. The historic part of the building is two storeys high, with an additional lower ground floor. It is white stuccoed and has a pitched, slate roof, with decorative eaves. Historically, the building was a pair of semi-detached dwellings, but a new dwelling was added to the rear of No 11 in the early 21st century, which is now known as The Garden Villa, 11C Montpelier Villas (No 11C). The appellant advises that No 11C is an almost like-for-like replacement of a previous 20th century extension, which was sited to the rear of the property.
7. 11C is a part two storey and part single storey dwelling, which has a lower ground floor and a flat roof. Its design and materials complement the historic part of the building. The two storey part of the property has a parapet roof, which is lower in height than the eaves on the historic part of the building. 11C is set back in its plot, when compared to the historic part of the building. The single storey element adjoins the western boundary of the site.
8. Based on my site visit and the evidence before me, I find that the listed building's special interest insofar as is relevant to these appeals is derived from its historic and architectural interest, as an illustration of 19th century Regency-style, domestic architecture. The building's grand stature, use of traditional materials and its pleasing architectural style and design make important contributions in these regards.
9. The proposal seeks to construct an additional storey above the existing single storey part of the building, which would provide a dressing room for the master bedroom. The proposed design and materials would match those on the existing 21st century addition, including continuing the parapet and cornice detailing and lead sheeting for the roof.
10. The proposal would be lower in height and set back from the highway when compared to the historic part of the building. While the footprint of the building

would remain unchanged, the proposal would increase the bulk and massing of this modern addition at first floor level. The proposal would extend the first floor part of the building up to the site boundary, diminishing the sense of space at first floor level that currently exists.

11. In combination with the existing 21st century addition, the proposal would increase the prominence of this modern addition and harmfully diminish the primacy of the historic part of the building. As a result, the proposal would fail to preserve the special interest and architectural integrity of the listed building.

Setting of Nos 70-74

12. Nos 70-74 form part of a terrace, which is 4 storeys in height, with a basement. This listed building has uniformed, 3 storey rear outriggers. While the rear of the terrace is not referenced in the list description, listings are primarily for identification purposes and do not provide an exhaustive or complete description of the special interest.
13. Based on my site visit and the evidence before me, I find that the listed building's special interest insofar as it relates to these appeals is derived from its historic and architectural interest, as an illustration of a 19th century residential terrace. I find that the size, height and scale of the terrace, the uniformity of the rear outriggers, its regular pattern of fenestration and its traditional materials contribute towards its special interest.
14. Nos 70-74 have small rear gardens. The proposal would extend the two storey built form of the appeal property up to the boundary with the listed terrace. While views of the rear of the terrace and its uniformed rear outriggers would still be available from the public realm, the proposal would diminish views of the rear of this listed building and reduce the sense of space between these properties that currently exists. As a result, I find that the proposal would fail to preserve the setting of the nearby listed building.

Conservation Area

15. The appeal site lies within the Montpelier and Clifton Hill Conservation Area (CA). The CA covers an extensive area and was largely developed in the 19th century and mainly consists of late Regency and Victorian buildings. The significance of the CA insofar as is relevant to this appeal is derived from the concentration of high quality historic buildings, including Italianate villas and grand terraces, the prevalent use of white stucco and the high quality open spaces and landscaping.
16. The proposed design and materials would be harmonious with the 21st century addition to the building. While the proposal would result in a more symmetrical appearance, it would bring the two storey form of the dwelling hard up against the boundary. The proposal would diminish the sense of space between the appeal property and the neighbouring terrace and reduce views available of the rear of the listed terrace. Although the small rear gardens of the adjacent terrace would ensure a gap is retained in the street scene, this would be diminutive in size when compared to the scale of the built form either side.
17. As a result, I find that the proposal would fail to preserve the character and appearance of the CA.

Public benefits, balance and conclusion on heritage issues

18. Paragraph 205 of the National Planning Policy Framework 2023 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 advises that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should require clear and convincing justification. Given the nature and extent of the proposal, I find the harm to be less than substantial to the special interest of Nos 11 & 12, the setting of Nos 70-74 and the character and appearance of the CA, but nevertheless of considerable importance and weight.
19. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing the asset's optimum viable use.
20. The appellant ascertains that the current roof form is poorly detailed with a standard flat roof. While the proposal would continue the existing parapet wall detail, there is no compelling evidence before me why this detailing cannot be added to the existing single storey part of the building and I therefore give this benefit limited weight in my decision. I do not find that the existing single storey part of the building distorts the symmetry of the building, neither does it result in an inconsistent form of development. In fact, I am advised that No 11C won a design award. Consequently, I find no benefit in this regard.
21. The proposal would result in investment into the property, which would have a small economic benefit, which carries limited weight in favour of the proposal. I do not find the proposal necessary to secure the viability and long-term conservation of the building. Furthermore, there is no substantive evidence before me that the proposal is necessary in order to secure the optimum viable use of the asset.
22. Overall, I find that there would be insufficient public benefits arising from the proposal to outweigh the harm that I have identified. On balance, I conclude that the proposal would fail to preserve the special interest of Nos 11 & 12, the setting of Nos 70-74 and the character and appearance of the CA. Accordingly, the proposal would fail to satisfy the requirements of the Act and paragraph 203 of the Framework.
23. The proposal would also conflict with Policy CP15 of the Brighton & Hove City Plan Part One, March 2016 and Policies DM26 and DM27 of the Brighton & Hove City Council's City Plan Part Two, October 2022 (City Plan Part Two). These policies among other things seek to conserve and enhance the historic environment, giving the greatest weight to designated heritage assets and their settings and to preserve or enhance the distinctive character and appearance of the CA. As a result, in respect of the section 78 appeal, the proposal would not be in accordance with the development plan and the considerations I identify would not outweigh that conflict.

Living conditions of Nos 71 and 72 Montpelier Road

24. Nos 71 and 72 have windows on the rear of the terrace, including on their rear outriggers that face the appeal site. The single storey built form of No 11C is currently visible from the rear of these properties. At present, the first floor element of No 11C is set away from the boundary. The proposal would extend the built form at first floor level right up to the boundary, resulting in a large blank, flank wall.
25. I appreciate that the appeal site lies within a tight knit residential area. The proposal would also straddle the boundary of these 2 properties and would not fully enclose their rear gardens. However, I find that the proposal by reason of its size, design and siting would appear visually imposing and result in a harmful level of enclosure for occupants of these properties. While neighbouring residents have not objected on this ground, this does not alleviate my concerns identified above.
26. I concur with both main parties that the proposal would not result in a harmful loss of daylight, sunlight or overshadowing to the living conditions of occupants of the neighbouring terrace. However, this also does not alleviate my concerns raised above.
27. For the reasons given above, I find that the proposal would harm the living conditions of occupants of Nos 71 and 72, having particular regard to enclosure. The proposal would conflict with Policy DM20 of the City Plan Part Two. This policy among other things requires that development does not cause unacceptable loss of amenity to the adjacent or nearby residents.

Other Matters

28. The neighbour support for the proposal has a neutral effect on my decision and does not outweigh the harm identified above.

Overall Balance and Conclusion

29. Having regard to the economic, social and environmental objectives of the Framework, the benefits which would accrue from the proposal are as set out above in the heritage balance and carry limited weight in favour of the appeals. In addition to the harm that I have identified to the designated heritage assets, the proposal would also result in harm to the living conditions of Nos 71 & 72. I find that there would be insufficient public benefits arising from the proposal and there are no material considerations, which would outweigh the harm that I have identified.
30. For the above reasons and having regard to all other matters raised, I conclude that both appeals should be dismissed.

A James

INSPECTOR