



Appeal Decision

Site visit made on 4 February 2025

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 February 2025

Appeal Ref: APP/Q1445/F/24/3343776

11 Grand Avenue, Hove BN3 2LF

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Shaun Ahwal of Legal-Link Limited against a listed building enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice was issued on 9 April 2024.
 - The contravention of listed building control alleged in the notice is the replacement of the roof tiles with machine made tiles on the listed building.
 - The requirements of the notice are:
 1. Remove all roof tiles and reinstate handmade roof tiles that match the material, shape, colours and finish of the tiles that existed before the unauthorised works took place.
 - The period for compliance with the requirements is twenty four (24) months.
 - The appeal is made on the grounds set out in section 39(1)(d) and (i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is dismissed and the listed building enforcement notice is upheld.

The appeal on ground (d)

2. This ground of appeal addresses situations where essential and urgent works were needed to preserve the listed building. The key emphasis is on the words 'essential' and 'urgent' and the 'need to preserve'. Therefore, the ground of appeal comprises three tests. The first of these is whether the works were urgently necessary in the interests of safety or health; the second is that it was not practicable to achieve the aims of safety, health or preservation of the building by repair or temporary support and the third test is that the works carried out were the minimum measures immediately necessary to achieve the aims of safety, health or preservation. For an appeal to succeed on ground (d) all three tests must be met and the onus is on appellants to conclusively show that this is the case.
3. Under this ground it is contended that the roof was in a dilapidated state through neglect and was structurally compromised and at a high risk of collapse. As such, immediate measures were required to rectify this. However, there is little evidence that the roof was in this condition and it is not at all clear whether the condition of the roof related to the tiles at all. There is some photographic evidence which shows some missing tiles, but there is no evidence of why these could not have been replaced or repaired rather than replacing the entire roof with new tiles. Furthermore, there are other ways of making a roof more watertight than replacing all of the tiles.

4. Therefore, on this ground of appeal there is insufficient evidence for me to conclude that the works were essential and urgent and needed to preserve the listed building. The appeal on ground (d) does not succeed.

The appeal on ground (i)

5. Ground (i) is that the steps required for the purpose of restoring the character of the building to its former state would not serve that purpose. The appellant argues that there is no evidence to suggest the previous tiles are original from when the building was built and also, the view that the new tiles cause harm to the host building is subjective and the steps set out in the Notice do not go any further to restoring the character of the building to its former state.

6. The appeal building was first listed in November 1992. It is a former house which is now divided into flats, described in the listing as:

1900 - 1903, minor alterations late twentieth century. Architect A Faulkner, builder William Willett. Surrey vernacular style. Red brick, tile hung first floor, steeply pitched hipped clay tile roof, sprocketed eaves, large external stack with chimneys set at an angle to right of entrance, 2 other groups of similar stacks on east return and to north. Plan: square block on corner site – entrance front west, south front looking onto gardens of Grand Avenue. West front: 2 storeys plus attic, 3 bays, irregular fenestration of mullion and transom windows, central full height gabled bay with eaves projecting over canted bays with rendered plinths, inserted twentieth century dormer on right return, shaped gable end left, 6 light window, 4 light to right, similar below, right hand window cutting into large chimney breast, hipped roof porch carried on trios of pillars, arch-head entrance, original panelled door incorporating a fanlight with Adam-style internal grill. Right return (south front) with full height canted bay and inserted twentieth century plate glass dormer window. Part of a good group with Nos 8-10 (consecutive).

7. Based on the evidence before me, including photographs, it is likely that the tiles on the building that existed before the unauthorised works were in place at the time of listing and that is a relevant factor in the determination of the appeal on ground (i). In my judgement there are clear differences between the two types of tiles uses; the existing ones have a different colour and are smoother, more uniform and have a modern appearance in comparison to the previous ones which were more aged and weathered with a more rustic appearance including a variety of shades of red and brown owing to their hand-crafted origins and exposure to the elements. Consequently, the works betray the vernacular style and historic character of the building, much of which is derived from the surviving architectural style, design and materials used on the hipped clay tile roof and external elevations, and important features described in the listing.
8. The steps required by the Notice are to remove all roof tiles and reinstate with handmade roof tiles that match the material, shape, colours and finish of the tiles that existed before the unauthorised works took place. That would serve the purpose of restoring the character of the building to its former state. Therefore, the appeal on ground (i) does not succeed.

A A Phillips

INSPECTOR