



Appeal Decision

Site visit made on 4 September 2025

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2025

Appeal Ref: APP/Q1445/Y/24/3357780

Flat 1, 48 Buckingham Road, Brighton BN1 3RQ

- 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 Tim Kingston against the decision of Brighton and Hove City Council.
 - The application reference is BH2024/01499.
 - The works are described as 'replace one wooden framed back bedroom window and wooden framed lounge French windows with UPVC equivalents.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the appeal site lies within a conservation area and relates to a listed building, I have had special regard to sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

3. The main issues are whether the retention of the works preserve a Grade II listed building, known as 'Numbers 45-58 and attached walls and gate piers' (Ref: 1380038), and any features of special architectural or historic interest that it possesses and the extent to which the works preserve or enhance the character or appearance of the West Hill Conservation Area.

Reasons

Listed building

4. The appeal property forms part of a Grade II listed building, which dates back to the mid-19th century and is known as 'Numbers 45-58 and attached walls and gate piers'. The listed building is a three storey terrace property, with basement and attic, which is finished with stucco and has a slate roof. While there are a variety of window designs on the rear elevation of the terrace, they are prominently white painted, timber framed sash windows, with glazing bars.
5. Based on the evidence before me and my site visit, I find that the listed building's special interest insofar as is relevant to this appeal is derived from its historic and architectural interest, as an illustration of mid-19th century domestic architecture, which is in a classical style. The building's grand scale, its surviving historic fabric and the presence of traditional, timber framed windows contribute towards its special interest.

6. The appeal scheme seeks consent to retain a UPVC window and French windows. The UPVC windows have a materially different aesthetic and a chunkier and shinier appearance when compared to the timber windows that they replaced. The French windows are now single paned and feature plastic door furniture, in comparison to the previous French windows which were multi-paned with light weight glazing bars and metal door furniture. The use of UPVC fails to capture the character of timber and appears incongruous on this historic building. The use of UPVC and the modern design of the windows fails to preserve the authenticity and integrity of the listed building.
7. While the appellant advises that the previous windows were in a poor condition and needed replacing, there is no condition survey before me. I therefore give this argument limited weight in my decision. I appreciate that the previous casement window and French windows were modern additions and that the appeal scheme has not resulted in the loss of any historic fabric. Nevertheless, the appeal scheme by reason of its materiality and design erodes the special interest of this designated heritage asset.
8. I appreciate that the windows are sited to the rear of the building and screened from the public realm by the existing built form. Nevertheless, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained.
9. While I observed other UPVC windows on the listed building, including on the rear elevation of the outrigger for No. 48 Buckingham Road, there is limited evidence before me on the circumstances of these other windows. Furthermore, the existing UPVC windows are clearly distinguishable from the traditional timber windows and demonstrate that material harm can be caused to the historic environment by such development. As a result, I give the existing UPVC windows limited weight in my decision.
10. The appellant advises that they did not know the building was listed. The carrying out of unauthorised works to a listed building is an offence of strict liability. That is, it makes no difference if the person carrying out the works did not know that the building was listed.
11. For the reasons given above, I find that the appeal scheme fails to preserve the special interest of the listed building. I give this harm considerable importance and weight in the planning balance of this appeal.

Conservation Area

12. The appeal site lies within the West Hill Conservation Area (CA), which is predominately a residential area. The CA consists of a mix of dwelling types including two and three storey terraces, which date back to the 19th century. The significance of the CA insofar as is relevant to this appeal is derived from the concentration of high quality historic buildings, including grand terraces and the presence of traditional materials.
13. The windows are sited to the rear of the terrace and are screened from the public realm by the existing built form. The windows have very limited prominence from the private domain. Unlike listed buildings, the significance of a CA is dependent

upon how it is experienced. Under such circumstances, case law¹ has established that works must be judged according to their effect on a CA as a whole and must therefore have a moderate degree of prominence. Given the above, I find that the appeal scheme preserves the character and appearance of the CA. Accordingly, I find no conflict with Policy DM26 of the City Plan Part Two, October 2022.

Public Benefits and Heritage Balance

14. The appeal scheme fails to preserve the special interest of the Grade II listed building. In finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Given the nature and extent of the works, I find the harm to the significance of the listed building to be 'less than substantial' and at the lower end of the scale. However, this should not be equated with a less than substantial planning objection and is of considerable importance and weight. Paragraph 215 of the National Planning Policy Framework (the Framework) advises that this harm should be weighed against the public benefits of the scheme, including where appropriate, securing its optimum viable use.
15. The appellant advances that the works improve the insulation and security of the building and that they also reduce energy consumption, noise transmission and maintenance requirements. However, these are largely private benefits. The appeal scheme helps to improve the thermal efficiency of the property and contributes to the government's goal of achieving net zero. However, there is no compelling evidence before me that similar benefits could not be achieved through a more sensitive scheme, which utilises traditional materials. Consequently, I give this argument limited weight as a public benefit. There is also no substantive evidence before me that timber windows would not conform to fire safety regulations.
16. The appeal scheme has resulted in investment into the building, which has a small economic benefit, which carries limited weight as a public benefit. There is no compelling evidence before me to suggest that the use of the building would cease in the absence of the works. Accordingly, I do not find the appeal scheme necessary to secure the viability and long-term conservation of the building. As a result, the public benefits carry limited weight in favour of the development and are insufficient to outweigh the great weight afforded to the conservation of heritage assets.
17. Given the above, I conclude that, on balance, the works fail to preserve the special historic interest and significance of the listed building. The works fail to satisfy the requirements of the Act and the historic development policies in the Framework. The works also conflict with Policy CP15 of the Brighton and Hove City Plan Part One, adopted March 2016 and Policy DM27 of the City Plan Part Two. These policies among other things require that alterations to a listed building do not harm the special architectural or historic interest of the building, having particular regard to the use of materials which are appropriate historically and aesthetically.

Other Matters

18. While no objections were received from neighbouring residents, this does not alter my findings set out above.

¹ South Oxfordshire DC v SSE & J Donaldson [1991] CO/1440/89

Conclusion

19. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

A James

INSPECTOR