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# Appeal Decision

Site visit made on 14 May 2013

**by R Barrett Bsc Msc Dip UD Dip Hist Cons MRTPI IHBC**

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

**Decision date: 25 June 2013**

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**Appeal Ref: APP/Q1445/A/12/2186670**  
**14 Sussex Square, Brighton BN2 5AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Craig Jones against the decision of Brighton & Hove City Council.
  - The application Ref BH2012/02278, dated 23 July 2012, was refused by notice dated 3 October 2012.
  - The development proposed is works to the rear including replacement of existing conservatory at ground level. Replacement of UPVC windows with timber windows and renewal of platform to existing roof terrace. Raising of parapet wall around roof terrace and other associated alterations.
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## Procedural Matter

1. I have used the Council's description of development as this more accurately reflects the proposed works for which planning permission is sought.

## Decision

2. For the reasons that follow, I dismiss the appeal in so far as it relates to the works for renewal of platform to existing roof terrace, raising of parapet wall around roof terrace and other associated alterations. However, I allow the appeal in as far as it relates to the remainder of the application and grant planning permission for works to the rear including replacement of existing conservatory at ground level and replacement of UPVC windows with timber windows at 14 Sussex Square, Brighton BN2 5AA, in accordance with the terms of application BH2012/02278, dated 23 July 2012, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) With the exception of works for renewal of platform to existing roof terrace, raising of parapet wall around roof terrace and other associated alterations, the development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan dated July 2012; P1 B; P2 B; P3 B; P4 B; P5 B; P6 B; P7 B; P8 B; P9 B; P10 B; P11 B; P12 B; P13 B; P14 B; P16 B; P17 B; P18 B; P19 B; P20 B; P21 B; P23 B; P24 B.
  - 3) On installation, the frames of the windows hereby approved shall be painted white and retained as such thereafter.
  - 4) Notwithstanding condition 2 no development shall take place until detailed drawings and sample elevations of the proposed roof lantern

including 1:1 joinery details have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.

### **Main Issue**

3. The main issue is the effect of the proposed development on the living conditions of surrounding occupiers with regard to overlooking and noise and disturbance.

### **Reasons**

4. The appeal proposal relates to a Grade I listed building located within the Kemp Town Conservation Area. It is an imposing terraced property set within a terrace of similar properties. The appeal proposals relate to the rear of the property.
5. The flat roof in question is at present accessed from a large sash window. Removable timber steps provide access onto a metal platform which leads to the flat roof at second floor level. Whilst the perimeter of the roof is at present open, it was previously enclosed by safety railings with wide spaces between the verticals. A metal staircase that ran down the rear of the building provided access to the ground floor. This arrangement may have provided emergency access from the upper floors of the building. In any event, it is agreed between the parties that the roof has been used in the past as a terrace. However, I consider that without suitable access, safety railings and appropriate surfacing, the existing roof terrace would be unlikely to be used extensively for recreational purposes or entertaining.
6. The proposed works would have the effect of improving access to the roof and enclosing it, such that it would be likely to be used more formally and regularly. It could therefore be used more for recreational purposes or entertaining. This intensification of use would be likely to increase the potential for noise and disturbance to surrounding occupiers. As the adjacent properties are close, particularly flat 3 on the upper floor in the same building and those next door at No's 13 and 12, even though the proposed raised parapet may help to reduce the noise and disturbance, I find that it would be likely to cause harm to the living conditions of these residents. Whilst proposed insertion of double glazed units into the rear windows to flat 3 may help to reduce the disturbance when closed this would not overcome my concern.
7. Moreover, the proposed terrace would provide high level uninterrupted views of properties in the surrounding area. It would be likely to increase the level of actual and perceived overlooking into habitable rooms of surrounding properties at 14, 13 and 12 Sussex Square and the rear garden to 4 Church Place. In particular, it would provide close range uninterrupted views into the rooms to flat 3, at No 14, one of which is a bedroom. This would reduce the privacy in these rooms even though the views would be at an angle. Whilst the intention to change these windows to traditional sash windows may reduce the potential for loss of privacy, it does not overcome my concern. Whilst there have been no objections from neighbours in this regard, my concern is not only for the existing occupiers but for future occupiers too.
8. I am aware that there have been no objections from English Heritage or the Conservation Officer. I have had special regard to the desirability of preserving

the building or its setting or any features of special architectural or historic interest which it possesses and find the proposals acceptable in this respect. In addition, they would generally preserve and enhance the character and appearance of the Kemp Town Conservation Area.

9. In coming to my decision, I have had regard to a previous appeal decision referred to APP/Q1445/A/12/2172031. I have limited information on this, but am aware that there are significant differences between that proposal and the appeal proposal. However, in as far as it is relevant to this appeal, I have concurred with my colleague's views.
10. I conclude that the proposal would result in unacceptable living conditions for surrounding occupiers with regard to overlooking and noise and disturbance. It would therefore fail to accord with Policies QD14 and QD27 of the Brighton and Hove Local Plan (2005). These state that planning permission for extensions or alterations to existing buildings will only be granted if the proposed development would not result in significant noise, disturbance or loss of privacy to neighbouring properties. I find that these policies are generally consistent with The National Planning Policy Framework.

### **Conditions**

11. I have considered the conditions suggested by the Council in light of advice set out in Circular 11/95: *The Use of Conditions in Planning Permissions*. I have attached the standard condition relating to the commencement of development. For clarity a condition referring to the relevant plans is necessary for the avoidance of doubt and in the interest of proper planning. A condition to ensure that new windows are painted to match those existing is also necessary to ensure that they blend in with the host dwelling. Detailed elevations, sections and sample joinery details for the proposed windows and doors are already provided, therefore a condition to this effect is not required. However, details of the proposed roof lantern are required to ensure that the appeal development preserves the special architectural and historic interest of the listed building. A condition to ensure that any proposed render finish should match the existing is not required as such works are not part of the appeal proposal. Conditions relating to the proposed railings, parapet, placing furniture on the proposed terrace or surface material for the terrace are not required as this part of the appeal is dismissed.

### **Conclusion**

12. For the above reasons, I conclude that the appeal should fail in relation to works for renewal of platform to existing roof terrace, raising of parapet wall around roof terrace and other associated alterations. However, in relation to the remainder of the works, I conclude that the appeal should be allowed.

*R Barrett*

INSPECTOR

