
Appeal Decision

Site visit made on 14 July 2015

by C A Thompson DiplArch DipTP RegArch RIBA MRTPI IHBC

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

Decision date: 10 August 2015

Appeal Ref: APP/Q1445/C/15/3003845
7 Aymer Road, HOVE, East Sussex BN3 4GB

- The appeal is under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
 - The appeal is by Mr Fred Harrison against an enforcement notice issued by Brighton & Hove City Council.
 - The Council's reference is 2014/0165.
 - The notice was issued on 9 January 2015.
 - The breach of planning control as alleged in the notice is the installation of railings on top of the boundary walls to the front of the property.
 - The requirements of the notice are:
 - 1 Remove the railings that sit above the wall on the north, east and southern boundaries of the front garden, and;
 - 2 Make good and repair any damage to the existing walls caused by the removal of the railings.
 - The period for compliance with the requirements is 3 months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a)+(g) the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the installation of railings on top of the boundary wall to the front of the property.

Background Matters

2. The site is within the Pembroke and Princess Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLB+CA Act) sets out a statutory duty, in the exercise of planning functions in such areas, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
3. Under the Town and Country Planning General Development Order 1988 (as amended) (GPDO) the Council has made The Pembroke and Princess Article 4 Direction 1994 (amended). In this Direction the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure, that is permitted under Part 2, Minor Operations, Class A1(a) of the GPDO, is brought under planning control. The signed and sealed Direction is dated 2 November 1994.

4. The development plan (DP) includes the Brighton and Hove Local Plan (LP). There is also an adopted (December 2009) supplementary planning document entitled Architectural Features (SPD). Relevant Government policy includes that in the 2012 National Planning Policy Framework (NPPF).

The Notice

5. It is a matter of fact that the notice refers just to the railings and not the gates despite both being to a similar design.

Ground (a) Appeal

6. This ground is that planning permission ought to be granted.

Main Issue

7. There is one. This is whether the notice works have resulted in the character or appearance of the Pembroke and Princess Conservation Area being preserved or enhanced.

Reasons

8. This is a handsome street composed of what looks like, substantial and good-looking, mainly Victorian or Edwardian, semi-detached villas.
9. I saw that one of the particular, distinctive and attractive, local features is the low, red brick, frontage boundary walls with their taller gate pillars. These give a pleasing rhythm to the street picture. The lower sections of the walls probably once had cast iron railings between the pillars but these are now gone (likely to have been removed as part of the Second World War effort).
10. The metal gates and railings added to the frontage of N^o 7 are made from steel bars in the pattern of vertical railings painted black and set within horizontal top and bottom rails.
11. The notice works are to an unashamed modern design but, despite being made from rather thin steel sections, they have presence, look intrinsically attractive and are functional. Rather than be out of place in Aymer Road the new railings fit well within the retained historic fabric (the low front walls and the taller gate pillars) and (along with the gates) seem to me to have helped both to preserve and enhance the character and appearance of the conservation area. This exceeds the statutory duty identified by section 72(1) of the PLB+CA Act and would not conflict with LP Policies HE6 and QD5 or the main thrust of Chapter 12 of the NPPF. These are sufficient reasons to allow the appeal under ground (a).
12. In reaching this conclusion I have considered the advice in the SPD on railings and gates. I accept that the use of a traditional cast iron material, in historic areas, is generally to be preferred and that it is desirable for such chunky sectioned vertical railings to be individually fixed into the top of any walls. But in this case there are no originals for the notice railings to match and a marked absence of any examples of suitable replacements elsewhere in the street; there certainly is no consistency of design or any acceptable pattern or style for such items. So this would appear to me to be one of the cases, of the kind referred to by the appropriate Conservation Areas Policy at the top of page 45 in the SPD, where a sympathetic contemporary alternative, of appropriate

scale, can be acceptable. Being such a suitable alternative this advice adds weight to my decision to grant planning permission for the notice works.

13. I have also taken into account the fact that the height of the gates (not identified in the notice so are likely to be retained) and the railings (required by the notice to be removed) are similar and are part of one cohesive design. Removing one element of this frontage boundary whilst retaining the other would look odd and would do little to preserve the character of the conservation area.

Ground (g) Appeal

14. Because of the success under ground (a) the ground (g) appeal does not fall to be considered.

Colin A Thompson