



# Appeal Decision

Site visit made on 17 March 2009

by **Phil Grainger** BA(Hons) MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**23 March 2009**

## Appeal Ref: APP/Q1445/A/09/2093731

### 21 Clifton Hill, Brighton BN1 3HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr A Earley against Brighton & Hove City Council.
- The application ref: BH2008/01466, is dated 21 April 2008.
- The development proposed was described as the reinstatement of a canopy to a bay window on the front elevation.

### Decision

1. I dismiss the appeal and refuse planning permission for the development described above.

### Preliminary Matter

2. Since the appeal was made the Council have indicated that they would have refused permission on the grounds that the design and detailing of the canopy is historically inaccurate and that it would therefore be a harmful addition that would detract from the historic character of the building and the wider street-scene. Accordingly they consider that the proposal would not preserve or enhance the character or appearance of the area. They have also noted some inconsistencies in the drawings.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the host building and the streetscene, which is within the Montpelier and Clifton Hill Conservation Area.

### Inspector's Reasoning

4. Many properties in the Conservation Area have ornate canopies around their ground floor bay windows. They are a particular feature of Clifton Terrace but also occur less consistently on some other streets including Clifton Hill. The Council now accept that no. 21 Clifton Hill once had a canopy. However, its form is unclear as the canopy has been lost and more recently the bay window seems to have had a tiled roof of a form common in many areas, but not this part of Brighton (though there is one at higher level on the adjoining property, no. 22). In any event, the bay currently has only what appears to be a temporary covering including plastic sheeting.
5. The appeal proposal seeks to replace this with a canopy with zinc sides curving up to a flat top and with decorative fretted valances around the bottom edge. The curved sides and fretted valances reflect the general form of many canopies in the area. However, the Council consider that the photographic evidence suggests that the original canopy at no. 21 did not have a flat top but

that the curved sides ran into the main wall of the house. Moreover, that would in their view be consistent with other properties where the canopy does not have large masonry cornice. Accordingly they consider that the proposed canopy would be historically inaccurate.

6. I have taken this into account. However, the photographs show only a very small part of the canopy to no. 21 and it is impossible to tell from them whether it had a flat top or ran into the wall. Even in respect of no. 20 it is, in my view, not possible to be certain that the canopy ran directly into the wall although it does appear to lack a large masonry cornice. In any event, whilst the Council consider that the canopies at nos. 20 and 21 would have been similar, there seems at the present time at least to be a larger gap between the ground floor and first floor windows at no. 20 than at no. 21. Taking all this into account I consider that what can be seen of the canopy of no. 20 in the photographs is not necessarily indicative of what existed at no. 21 and that the form of the original canopy there remains somewhat conjectural.
7. Moreover, whilst attractive and apparently dating from the mid-nineteenth century, no. 21 is not a listed building where historical accuracy would, in my view, carry greater weight. Instead it is a building in a conservation area where the statutory test relates to the effect on the character or appearance of the area rather than the building. If a proposal would maintain or enhance the character or appearance of the area it will (provided there are no other objections) be acceptable.
8. In this Conservation Area there are many canopies with flat tops, curved sides and ornate valances and they do not all appear to follow exactly the same pattern. In my judgement, whether or not a flat topped canopy has ever existed on this particular building, a canopy taking such a form is in principle capable of maintaining the character of the area. Indeed it could be argued that it would be an improvement relative to the existing covering or a return to something similar to the roof over the first floor bay at no. 22. That said, I have been given no clear indication of what the appellant intends to do if permission for a canopy along the lines proposed is not forthcoming.
9. In addition I do not fully share the Council's concerns on a number of other matters including the width of the canopy relative to the first floor window above and the relationship to the door opening. From my observations there appears to be some variation in these respects amongst the canopies in the area. Moreover the built form along Clifton Hill generally shows more variation than some other parts of the Conservation Area. Taking all this into account, along with the non-listed status of the building, I consider that it is not necessary to be extremely prescriptive about such matters and that provided the relationships are harmonious the lack of any precise historical precedent need not be an overriding objection.
10. I am however concerned about the variations between the various drawings that make it difficult if not impossible to assess how satisfactory the proposed canopy would be. Amongst other things, whilst the canopy would lack the deep masonry cornice that is typical of flat topped canopies in the area it is not clear what form the edging around the top would in fact take. Even if the treatment shown on the appeal drawing (ECH7A) is taken to be consistent on the section and elevation the drawing submitted with the appellant's final comments (ECH7B) seems not to be, whilst the more detailed 1:10 section (ECH8), which

might be expected to resolve matters, appears to show yet another variation. Moreover, the later drawings are, I understand, illustrative only.

11. I am also concerned about what appear to be discrepancies in the levels of the bottom of the first floor window as shown on the elevation and the section. Whilst the difference may be small it would affect the gap between the top of the canopy and the cill of the window above. The section appears to be carried through from the survey drawings and as this suggests a slightly lower level for the window cill the gap, which at best would be small, may become almost imperceptible. The detailed section (ECH8) seems to confirm that.
12. There are other discrepancies relating to the width of the canopy which the appellant has sought to address with the illustrative drawing (ECH7B) submitted after the appeal was made. The result of all this is that there is no drawing that I can rely on to form a clear view as to what the finished appearance of the canopy would be. In particular there are uncertainties regarding its width, how steeply sloping the sides would be, the detailing of the edge of the flat top, and the gap to the first floor window cill.
13. Although it has been suggested that these matters could be dealt with by conditions, in my view they go well beyond what can be dealt with safely and satisfactorily in that way. They affect the proportions of the canopy and its relationship to other features of the building and this, in my view, has the potential to have significant implications for how harmonious an addition it would be. I am especially concerned that it is uncertain that a clear separation between the first floor window cill and the top of the canopy can be achieved at all. Moreover, if a characteristic gap cannot be achieved it will be all the more important to ensure that the other discrepancies are resolved in a way that is sufficient to offset this, assuming that to be possible.
14. Accordingly, whilst in principle I consider that a flat topped canopy may be acceptable, there are so many deficiencies and discrepancies in the proposal before me that I cannot be confident that it would in fact preserve or enhance the character or appearance of the Conservation Area. Moreover, alternative solutions may be available other than a reversion to the apparently rather unsympathetic covering that seems to have existed in the recent past. I conclude that the proposal is contrary to development plan policy, in particular Policy HE6 of the Brighton and Hove Local Plan. For the reasons set out above and having taken all other relevant considerations into account I therefore conclude that the appeal should not succeed.

**P Grainger**

INSPECTOR

