



Appeal Decisions

Inquiry opened on 2 June 2009

Site visit made on 13 July 2009

by **G P Bailey MRICS**

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**Decision date:
10th August ,2009.**

Appeal A: APP/Q1445/C/08/2079660 20-26 York Place, Brighton, BN1 4LG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Park Avenue Estates Limited against an enforcement notice issued by Brighton & Hove City Council.
- The Council's reference is 2006/0324.
- The notice was issued on 29 May 2008.
- The breach of planning control as alleged in the notice comprises various alterations to the external appearance of the buildings as set out in Schedule 1 attached to this decision notice.
- The requirements of the notice are as set out in Schedule 2 attached to this decision notice.
- The period for compliance with the requirements is 52 weeks.
- The appeal was made on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). On 9 January 2009, the appellant withdrew the appeals made on grounds (a) and (f), so the appeal is proceeding on ground (g) only. The application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) also falls to be considered.

Summary of Decision: The appeal succeeds and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.

Appeal B: APP/Q1445/A/08/2089915 St Peter's House and 20-26 York Place, Brighton, BN1 4LG

- 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 Park Avenue Estates Limited against the decision of Brighton & Hove City Council.
- The application (ref: BH2008/01562), dated 29 April 2008, was refused by notice dated 24 October 2008.
- The development proposed is described in the application as "*remedial works to the façade to replace missing architectural details (and) new frontages to shop fronts on the ground floor*".

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Procedural Matters

1. The inquiry sat for four days on 2, 15 and 16 June 2009 and 13 July 2009.

Background

2. Appeal A and Appeal B each concern seven properties, numbered consecutively 20-26 York Place, which form part of a longer terrace fronting the western side of a busy main road, between the junctions of Trafalgar Street to the south and Cheapside to the north. Opposite lies St Peter's Church, a grade II*(starred) listed building, standing in open gardens that form an "island" within a traffic gyratory system. The appeals sites lie towards the northern part and adjacent to the western edge of the extensive Valley Gardens Conservation Area, originally designated in 1973 and subsequently enlarged, which extends northwards, in irregular elongated form, from and including the Palace Pier and embracing the Royal Pavilion.
3. The issues to be determined in these appeals evolve from the planning history of the appeals sites which is now of some complexity. Planning permission¹ was granted in 2004 (and conservation area consent² granted in 2003) in respect of the appeals sites for development that included commercial uses on the ground floor with residential use above, various alterations to the existing frontage buildings, the provision of a mansard roof extension to Nos.23-26 to provide third floor residential accommodation and the erection of a flat-roofed rear extension, comprising a five-storey block of flats (the '2004 permission').
4. Development of such description has been erected that provides 44 flats of which eighteen are above the frontage properties at Nos.20-26³. The appellant accepts that, the scheme has not been built entirely in accordance with the permitted scheme; that in effect, the 2004 permission could not now be implemented; and, in any case, that that permission expired in April 2009.
5. Whilst the appeal site in Appeal B is limited to the original frontage buildings only, the enforcement notice (Appeal A) is directed at the whole of the land including the new block at the rear, although the allegations and requirements of the notice are directed solely at alterations undertaken to the original frontage buildings; however, nothing turns in these cases on the differing extent of the two appeals sites.
6. In respect of Appeal B, revisions to the scheme as originally submitted, made prior to its determination by the Council, brought about alterations to the description of the proposed development to:

"regularisation of development as built (commercial on ground floor with residential over); specifically, regularisation of the roof and alterations to the architectural adornments to parapet walls"

and the scheme was refused by the Council in October 2008 on that basis. I have considered Appeal B on that same basis.

¹ Council ref: BH2003/00630/FP dated 19 April 2004 – "use of derelict shops at 22-23 as restaurant/café; external alterations to retail units 20, 21, 24-26; part-3/part-4-storey extension rear of 23-25; mansard roof extensions to 23-26, all to create a total of 44 flats at first to fourth floors";

² Council ref: BH2003/00852/CA dated 11 June 2003 – "demolition of rear parts and outbuildings";

³ Collectively, the flats are known as 1-44 St.Peter's House, York Place;

7. Subsequently, planning permission was granted⁴ in December 2008 for certain works to the façade of the buildings including eaves corbelling; parapet walls and their adornment; and new shop fronts (the '2008 façade permission').
8. In addition to the scheme now the subject of Appeal B, in April 2009, planning permission was refused⁵ for alterations to the roofs of Nos.20-26 (the '2009 roofs refusal').
9. Essentially, it would be the case that a number of the unauthorised alterations referred to in the allegation in the enforcement notice would be remedied and resolved by implementation of the 2008 façade permission. During the progress of these appeals, the main parties have also reached agreement on certain further matters.

Plans (Appeal B)

10. Proposed revisions to the proposed front elevation (Dwg.No.AC/20-26YorkPI/01R Revision 2) were submitted in October 2008, just prior to the Council's determination of the application (now the subject of Appeal B). But that application was determined by the Council on the basis of plans comprising, firstly, a location plan and block plan (Dwg.No.AC/20-26YorkPI/LP) (the 'location/block plan drawing') and, secondly, existing and proposed front elevations (Dwg.No.AC/20-26YorkPI/01R Revision 1). No rear or side elevations or roof layout are shown in these plans, although the lack of such information is not included in the Council's reason for refusal.
11. After the lodging of the Appeal B and arising from discussions with the Council, prior to the opening of the inquiry, the appellant sought to introduce further amendments to the scheme. Existing and proposed front and side elevations are included on a further revised plan (Dwg.No.AC/20-26YorkPI/01ROOF Revision 3) (the 'Revision 3 Plan') and an additional plan illustrates the proposed rear elevation and roof layout (Dwg.No.AC/20-26YorkPI/ROOFPLANS) (the 'roofs layout plan').
12. In respect of the acceptability of amendments to proposals from those contained in the original application, it was held in *Wheatcroft (Bernard) Ltd v Secretary of State for the Environment* [1982] JPL 37, that the appropriate test is whether the permission, as might be granted, would represent a "substantial alteration" of what had been proposed by the application. The main criterion is whether the development is so changed that to grant permission would be to deprive those who should have been consulted the opportunity of consultation.
13. At the inquiry, the Council raised no objections to Appeal B being considered on the basis of the scheme shown in these latest plans.
14. The differences between the scheme as submitted and considered by the Council and that as now proposed, as shown on the Revision 3 Plan and the roofs layout plan, relate primarily to the design and appearance of the roofs of

⁴ Council ref: BH2008/01563 dated 22 December 2008 - "remedial works to the façade to replace missing architectural details (and) new frontages to shop units on the ground floor";

⁵ Council ref: BH2009/00039 dated 9 April 2009.

the buildings within this part of the terrace⁶. Primarily, these are matters of detail that, as a matter of fact and degree and in the terms of the *Wheatcroft* tests, would not be of sufficient scale or proportion to amount to a "substantial alteration" of the scheme as originally submitted and determined by the Council.

15. Moreover, the Revision 3 Plan and the roofs layout plan had been submitted to the Council and considered as part of the scheme the subject of the 2009 roofs refusal. That scheme had been the subject of consultation processes including those statutorily required, so, as the scheme has been placed in the public domain, interested persons likely to be affected by the latest version of the Appeal B scheme would be aware of its provisions and the basis on which Appeal B is now promulgated; so, their interests would not be prejudiced by taking the latest version of the scheme into account.
16. Furthermore, nothing would be gained by considering Appeal B on the basis of the originally-determined scheme (which the appellant no longer wishes to pursue), thereby requiring the appellant to lodge an appeal against the Council's refusal of the 2009 roofs refusal (which embraces the scheme the appellant does wish to pursue), further delaying a resolution of the issues in dispute and consequentially increasing the costs to all interested parties. In all of these circumstances and in the light of the *Wheatcroft* tests, I am satisfied that Appeal B would be properly considered on the basis of the latest drawings⁷ which also supply details missing from the originally-submitted drawings.
17. But before considering the merits of Appeal B, it would be appropriate to address Appeal A.

APPEAL A

Appeal A: The Deemed Application for Planning Permission

18. Although the appeal made on ground (a) was withdrawn prior to the opening of the inquiry, no similar provision exists, as far as I am aware, for the deemed planning application to be withdrawn. However, as no evidence has been adduced in support of this deemed application, no further action is being taken in consideration of its merits; so in order to avoid any potential future doubt, planning permission on the deemed application will be refused.

Appeal A: Ground (g)

19. In the notice of appeal, the appellant maintains that the period for compliance cited in the notice would be too short and had sought an extension to 91 weeks, derived not only from the extent and complexity of the physical works to the building, but also to accommodate the legal processes arising from the

⁶ The revisions comprise (i) the proposed reversion of the roof structure at Nos.21-22 to their original position and angle of pitch to match that at No.20 with rainwater goods of certain specification; (ii) the mansard roof of Nos.23-26 to the front to be covered with natural slate with a flat crown covered in lead sheet; (iii) the flank end walls to No.23 and to No.26 respectively to be reduced in height and provided with a raked angle; and (iv) the intermediate walls between Nos.23, 24 and 25 to project forward of the tiles on the mansard roof.

⁷ The relevant drawings comprise:- Dwg.No.AC/20-26YorkPI/LP; Dwg.No. AC/20-26YorkPI/01ROOF Revision 3; Dwg.No. AC/20-26YorkPI/ROOFPLANS.

- residential occupation of the flats in the upper part of the terraced properties. The Council is opposed such an extension, maintaining that, notwithstanding the extent of the works, the period, as cited, would not be unreasonable.
20. However, at the inquiry, it was the position of both main parties that an appropriate period for compliance would be 15 months and seek the notice to be varied accordingly.
 21. Nevertheless, such agreement would not set aside the need to consider the appeal on its merits. There is a danger that a lengthy period for compliance would not only blunt the urgency of the notice, but would also bring into question the very expediency of the taking of enforcement action in the first place. There is also the provision available to the Council in s.173A(1)(b) of the 1990 Act (as amended) to extend the compliance period, if circumstances so justify.
 22. In the making of an appeal, it would be the case that the appellant is entitled to assume success and is entitled to a reasonable period after the notice takes effect. But in withdrawing the Appeal A made on ground (a) in January 2009 (and in not seeking to pursue the deemed application for planning permission), the appellant was assured that, subsequently, the notice would come into effect. Arguably, therefore, processes to achieve eventual compliance with the notice could have been commenced from January 2009.
 23. However, in the present case, dismissal of Appeal B would mean that the requirements of the notice would "bite", to the extent that they would not be overridden, under the provisions of s.180(1) of the 1990 Act (as amended), by works comprised in the 2008 façade permission. If Appeal B succeeds, the main parties are agreed that all of the steps of the notice would be, effectively, overridden. Therefore, the appellant's assurance that the notice would come into effect would be clouded by the need for the Appeal B to be resolved. Hence, such resolution would now be the appropriate starting point on which to assess the "reasonable period" for compliance.
 24. The extent of the steps specified in the requirements of the notice illustrate that the works to the terraced buildings would be complex in themselves. The need to prepare specifications and plans, to obtain the relevant consents and permissions, to find and engage contractors and for the carrying-out the work, together with the implementation of the legal requirements pertaining to the tenancies of the residents, would justify a substantial period. The circumstances of this case would be sufficiently exceptional such as to justify a period of 15 months and the notice will be varied accordingly. To this extent, the appeal on ground (g) will succeed.

APPEAL B

Introduction and Main Issue

25. In essence, the scheme the subject of Appeal B seeks to alter unauthorised construction works already undertaken (which are the subject of the
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enforcement notice) that would not be addressed by the 2008 façade permission. The principal proposed works in dispute comprise, in summary:-

- (a) the design and form of the mansard roof at Nos.23-26;
- (b) the absence of a chimney stack between Nos.21 and 22;
- (c) the presence of a dormer window in the front elevation of No.24.

In addition, the main parties are agreed that the Council's concerns expressed about the glazing bar pattern of the casements of dormer windows in the front elevation of Nos.23-26; the external materials of the roof of Nos.21-22; and the treatment of party wall upstands, would each be matters capable of being addressed by appropriate conditions, if permission is granted.

26. Having regard to the background in this case, the **main issue** is, in the light of the Council's policies, the effect of the scheme on the appearance of the terraced buildings having regard to their setting in the street scene, including that of listed buildings and whether the scheme would preserve or enhance the character or appearance of the conservation area.

The Development Plan and Other Policy Provisions

27. The development plan includes the "*East Sussex and Brighton & Hove Structure Plan 1991-2011*" adopted in 1999 and the "*Brighton and Hove Local Plan*" adopted in July 2005. Under current legislation⁸, policies of structure and local plans no longer have effect unless "saved" by direction of the Secretary of State; all policies relied on by the main parties have been so saved. It is incumbent on me to take into account all relevant policies, including those of the development plan not cited in the Council's decision notice. Policies of the development plan most relevant in this case are those found in the Local Plan.
28. All proposals for new buildings must demonstrate a high standard of design and make a positive contribution to the environment; account will be taken of, among other matters, scale and height, architectural detailing, quality of materials and visual interest (Local Plan Policy QD1). The positive qualities of the local neighbourhood should be emphasised and enhanced by taking into account local characteristics (Policy QD2).
29. Development should display a high quality of design to preserve or enhance strategic views, important vistas, the skyline and the setting of landmark buildings; those of strategic importance include views into and from within conservation areas and the setting of listed buildings including landmark buildings of townscape merit (Policy QD4). Attractive street frontages are sought (Policy QD5) and, in respect of extensions and alterations in particular, development will be well-designed, sited and detailed in relation to the building to be extended, adjoining properties and the surroundings (Policy QD14).
30. The statutory need to pay special regard to the desirability or preserving the setting of listed buildings⁹ finds expression in policy requirements to permit development only where it would not have an adverse effect on the setting of a

⁸ See s.119 of and Schedule 8 to the Planning and Compulsory Purchase Act 2004.

⁹ See s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

listed building (Policy HE3). In the light of further statutory requirements¹⁰, proposals should preserve or enhance the character or appearance of the conservation area and should show, among other matters, no harmful impact on the townscape and roofscape of the conservation area and the retention and, where appropriate, the re-instatement of original features, such as chimneys and chimney pots, which individually and cumulatively contribute to the character or appearance of the area (Policy HE6).

31. In addition, also relevant as a material consideration is the Council's "Supplementary Planning Guidance Note BH1: Roof Alterations and Extensions" ('SPGBH1'), adopted in 1995 (but cross-referenced in current adopted Local Plan Policy HE6) which provides guidance, including detailed design considerations, based, it is stated, on that contained in national advice in Planning Policy Guidance 15¹¹ ('PPG15') (1994) and in "Mansard Roofs – Listed Building Guidance Leaflet" (1989) published by English Heritage (the 'EH guidance leaflet'). Further material considerations comprise the Council's "The Valley Gardens Conservation Area Study and Enhancement Plan" (approved 1995) (the 'Conservation Area Study') and "Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment" (2008), also published by English Heritage.

Reasons

The Character and Appearance of the Locality

32. The evidence indicates that the terrace in York Place was developed as dwellings in the period c.1810 to c.1820, but neither the terrace, nor any individual building within it, is listed. The terrace is generally of three storeys, but of varying architectural styles. It forms a northward continuation of St. George's Place and, beyond its junction with Cheapside (at which point stands the prominent Hobgoblin public house (No.31)), leads into London Road, a busy shopping street to the north-west. Ground floor uses in York Place comprise primarily retail, together with cafés, hot food shops and other commercial uses, with residential and other uses on upper floors.
33. St. Peter's Place and Richmond Place, fronted by period terraced properties some of which are listed, lie on the northern and eastern sides respectively of the "island" containing the substantial and dominant form of the St. Peter's Church, set in its spacious open gardens.
34. Outside the conservation area, to the rear of the appeal site, fronting both sides of the parallel Pelham Street, stand the substantial buildings of a college, including, on the western side, a multi-storey tower block. Some distance further to the north-west, to the rear of the western side of London Road, stands the tall, narrow and imposing St. Bartholomew's Church, a grade I listed building.
35. Valley Gardens is described in the Conservation Area Study as:-

¹⁰ See s.72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

¹¹ "Planning Policy Guidance: Planning and the Historic Environment" (Dept of Environment & Dept of National Heritage, 1994)

"...the central spine of historic Brighton... (and) includes some of the earliest buildings from Brighton's fashionable Regency development phase..." (para.1.1).

"...(Its) built form...was not developed to any kind of planned layout, nor within a planned timescale, nor in a common architectural style. Rather, the conservation area is made up of different terraces or groups of buildings as well as several larger buildings (linked and unified by) the 23 acres of (mainly) public gardens which run the length of the conservation area..."(para.2.1.1).

"The central part of the conservation area is formed by Victoria Gardens and the buildings which directly front onto the gardens" (para.2.4.1).

"Further north are the grounds of St Peter's churchyard.... The church itself dominates this part of the conservation area... (para.2.4.2). The terraces fronting Victoria Gardens developed gradually northwards from the 1770s to the 1820s... York Place... has retained its original terraced form, but has suffered from the addition of poor quality modern shop fronts and some unsympathetic alterations to the elevations above..."(para.2.4.3).

"The typical building form is the terrace, generally of three or four storeys, but often with an additional attic storey. The roofline is not uniform, but is characterised by pitched or mansarded slate roofs, often behind parapets, with prominent chimney stacks forming a rhythmic skyline. The architecture generally shares a common Regency/early-Victorian style based on classical architecture ... punctuated by sash windows graduated in size... The windows provide the visual rhythm..."(para.3.2.2).

"The character of the Valley Gardens as a whole stems from its wide mix of uses: commercial, residential, retail, cultural, educational and recreational. (I)ts character lies in its role as a 'green corridor' of open space in an urban centre (para.3.2.3). ... The grandness of the original terraced frontages and public buildings is also an element of the area's character" (para.3.2.4).

36. The designated area is divided into sub-areas; the appearance and character of that of "Victoria Gardens" containing the appeal site, is described as:

"...St.Peter's Church forms the main landmark in all views northwards...and is lent an important sense of enclosure by the continuous terraces on either side. Looking north, the tall chimney gable wall of the Hobgoblin public house in York Place visually terminates the view..."(para.3.5.1).

"The west side has the grand terrace of St George's Place...Elsewhere, the west side is now much more mixed in terms of roof line and architectural style..."(para.3.5.4).

"York Place remains consistently 3 storeys plus attic, but has been spoilt by inappropriate modern shopfronts...The roofline rises slightly and gradually at the northern end, culminating in the Hobgoblin public house; this gradual rise is very important in emphasising the end of the conservation area at this point and in turning the right angle to the taller, grander terrace of St. Peter's Place..." (para.3.5.6).

"York Place forms a retail parade more in character with the London Road shopping area to the north and has become dominated by fast-food/take-away outlets, with resulting brash illuminated advertisements... In this respect, York Place is somewhat out of character with the rest of the conservation area" (para.3.5.12).

37. From the evidence to the inquiry and my own observation of the locality, the essential characteristics of the designated area, including its traffic and
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vibrancy, remain largely in place, some fourteen years after publication of the Conservation Area Study.

The 'Mansard' Roofs at 23-26 York Place

38. The scheme indicates that the proposed roof structure would not possess secondary upper roof pitches, but would have a steeply-pitched frontage, punctuated by dormer windows and a flat crown, covered in lead sheet, with a vertical rear wall. The individual crowns of Nos.25 and 26 would stand about 0.5m higher than those of Nos.23 and 24, reflecting differences in the design of the original buildings.
39. The end-most party walls, that is, those at the southern end of No.23 and at the northern end of No.26, would project above the height of the roofs at Nos.22 and 27 respectively, as well as the crowns of Nos.23, 24, 25 and 26; each of these crowns would be divided by party wall upstands. It is intended that those end walls would be altered from those as already built such as to include the provision of a shallow angle, sloping down from a central point towards both the front and the rear. The intermediate party wall upstands would also be altered to provide a raked angle and to project forward of the slate front roof slope.
40. The Council's SPGBH1 indicates that where the existing roof form is an important element of a building's character, or contributes to the local street scene, then significant changes to the roof structure will be resisted. Hence, it would be the case that, in permitting the scheme the subject of the 2004 permission, the erstwhile roof form of this part of the terrace was not considered to possess those stated attributes.
41. Although the 2004 permission, granted under policies of a former development plan, has now expired, it remains a material consideration¹². Indeed, it is not the Council's case that, under its current adopted policies, it objects in principal to the provision of an additional storey in the form of an enlarged roof structure; the objection lies in the detail and the resultant impact of the scheme.
42. The SPGBH1 advises that where such significant changes are acceptable on unlisted buildings, the design should complement the building. Examples are given namely, a traditional steeper-pitched roof, or mansard, or gambrelled roof. As examples, they would not, necessarily, be exhaustive of the range of potentially-acceptable designs.
43. The SPGBH1 further advises that the design of traditional eighteenth- and nineteenth-century mansard roofs should incorporate a lower steeper slope between 72°-75° from the horizontal, that the upper gentler slope should normally be between 27°-30° from the horizontal and that flat-topped roofs or those with very shallow upper slopes mimicking mansards "...are not acceptable" (emphasis added).

¹² See *South Oxfordshire DC v Secretary of State for the Environment and Faherty Brothers Ltd*, [1981] 1 WLR 1092. The current adopted Local Plan had reached an advanced stage towards adoption – Second Deposit version – at the date of the 2004 permission.

44. Contrast such advice with that contained in the EH guidance leaflet which, the Council accepts, underpins its SPGBH1. The national guidance again advises against visible extra storeys where the existing roof structure is of historic or of architectural importance, or where the scale of the house or terrace would be damaged, particularly in respect of listed buildings or in conservation areas. But it adds that the correct form for roof extensions for Georgian and Victorian terraced houses (as these once were) "*...is generally the mansard*" (emphasis added) and that 'flat-topped' mansards "*...are not usually acceptable*" (emphasis added). That would indicate other potentially-acceptable designs would also be appropriate, dependant on particular circumstances.
 45. The tests of the scheme would be against those of the statutory requirements exercised in conservation areas and where the setting of listed buildings is affected, as reflected in Policies HE6 and HE3 respectively and, more generally, against Policies QD1, QD2, QD4, QD5 and QD14. The function of both local and national supplementary guidance, as a material consideration, is primarily to assist in the interpretation of those development plan policies.
 46. As an adopted statement, the SPGBH1 ordinarily would carry substantial weight. But no reference has been made to any particular parts of those Policies which would clearly demonstrate the need to invoke the more proscriptive approach of the SPGBH1, or that it would carry greater weight than the more permissive approach of the EH guidance leaflet. Indeed, the Council accepts that its SPGBH1 does not accord with the national advice on which it draws and, to that extent, reduced weight is accorded to this advice in the SPGBH1.
 47. The form of the roof structure, as proposed, would be different from the mansard arrangement of the 2004 permission and would not repeat the style of the mansard roof at No.29. But such differences would not, in themselves, give rise to objection as there is a wide variety of roof designs of these non-listed buildings in York Place and in the area as a whole, including on listed buildings elsewhere. All contribute to the appearance of the locality from which the character of the area is drawn.
 48. The northern end wall of No.26 would be visible as such from only a limited number of vantage points, primarily in St. Peter's Place and at an acute angle. Such feature would not appear stridently in the street scene. The southern end wall of No.23 would be seen more widely, particularly from the south and south-east. Nevertheless, the form of the end wall, with its steeply-pitched frontage (echoing that of the front of the roof structure) surmounted by the shallow-angled parapet, together with its proportions, would not stand out obtrusively as an over-poweringly bulky, or as a dominantly-discordant feature of the street scene; moreover, it would be comparable to the impact of that likely to have arisen had the scheme the subject of the 2004 permission been constructed.
 49. The proposed vertical end wall would be less-readily seen, as such, from public vantage points and largely obscured from upper floor windows of buildings in Pelham Street by the intervening five-storey extension block. No harm would arise to the form of the roof structure by reason of its design and,
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- consequently, it would not detract from the appearance of the building or the terrace within which it would be contained.
50. From these southerly vantage points of the York Place terrace, the eye is, and would continue to be, drawn, more readily, to the more-distant but noteworthy presence of the tall flank wall and chimney stack of the Hobgoblin public house at No.31, to which reference is made in the SPGBH1. To a substantial extent, the scheme would be seen against and as part of that backdrop. The eclectic mix of styles and designs of the roof line and architectural style of York Place, as acknowledged in the Conservation Area Study¹³, would be readily capable of absorbing the form and proportions of the proposed structure, including the altered intermediate party wall upstands, without material harm to the appearance of this group of buildings within the terrace.
51. As part of the character of Victoria Gardens within the designated conservation area, the Conservation Area Study also points out¹⁴ that, with one or two exceptions, buildings are not visible over the frontage terraces; in order to protect the historical primacy of the frontage buildings and the sense of enclosure, the Conservation Area Study seeks to ensure that new development immediately behind the frontage buildings should not intrude above the roof line of the frontage buildings.
52. At the inquiry, considerable debate arose from the Council's concern that, by reason of its lowered height, the proposed structure would not screen development to the rear to same the extent as would have been the case had the taller scheme the subject of the 2004 permission, or some other form of "traditional" mansard, were to have been erected.
53. Reference is made to an illustrative drawing¹⁵ (the 'Ash Sakula perspective') that seeks to show the view westward, with the scheme the subject of the 2004 permission in place, from a vantage point within the gardens to the north of St. Peter's Church. That drawing, submitted to the Council contemporaneously with that application, indicates the likelihood that the proposed five-storey rear extension would not be visible, to a material extent. However, the drawing is essentially a perspective, or an illustration, that is not drawn to scale. Moreover, it is not one of those cited in the Council's decision notice as being one on which the grant the 2004 permission is based.
54. It is also suggested that the approved drawings of that scheme are not wholly accurate. Be that as it may, from vantage points on the ground looking west to the appeal site, one of the most striking features, as illustrated in the submitted photographs, is that of a flat-roofed open-sided canopy enclosing accessways on the uppermost part of east side of the five-storey block, which is seen above the height of the unauthorised roof structure as built. This would likely remain the case if the Appeal B is allowed and the scheme implemented.
55. Hence, the extent of visibility of the rear structure might be a relevant material consideration in determining the expediency of enforcement action, taken in respect of any alleged non-compliance with the scheme the subject of the 2004

¹³ At para.3.5.4.

¹⁴ At paras.3.5.9 and 7.5.

¹⁵ "View of Proposal with St. Peter's Church" - Dwg.No.BRI 202, dated 13 November 2002 - Ash Sakula Architects.

- permission. But it would carry much less weight in determining the acceptability, or otherwise, of Appeal B as it is not the Appeal B scheme which would, in itself, result in development at the rear intruding above the roof line.
56. Moreover, if Appeal B were to be dismissed, the probability would arise that the appellant would be compelled by the effective enforcement notice to re-instate the former roof, which would be lower than that proposed in Appeal B, thereby exposing more of the rear block to views from the east. Such prospect would lend further weight to the appeal scheme. The possibility of a further alternative scheme being put forward by the landowner, as suggested by the Council, is not supported by any evidence of its likelihood and carries very little weight.
57. Turning to the setting of listed buildings, the Council's primary concern, as reflected in its reason for refusal, is that of St. Peter's Church¹⁶ which dominates this part of the conservation area, but reference is made also to the listed terrace on the northern side of St. Peter's Place and to the more-distant St. Bartholomew's Church.
58. St. Peter's Church stands prominently in views westward and southward from surrounding roads. But it is in northward views, to which reference is made in the Conservation Area Study¹⁷ and reflected in historical engravings and photographs to which the appellant refers, that the Church and its tall tower at its southern end forms the main landmark building of a type within the wide-ranging classification identified in Policy QD4 as being of strategic importance.
59. The appeal buildings are part of the terrace of York Place which, together with the terrace in St. Peter's Place and others elsewhere, comprise parts of the enclosure of the open grounds within which this landmark is viewed. The proposed roof would differ from the original structure and from that of the scheme the subject of the 2004 permission. But it would be seen, primarily in westward views across the gardens, but also from the north-east and south-east, as a minor part of a much wider townscape that comprises a complex mix of styles, form and proportions into which the scheme would be absorbed.
60. As I have found that no material harm would arise in terms of the design and form of the proposed roof, it would follow that the scheme would not harm any strategic or other important views within the conservation area, including those contributing to the setting of St Peter's Church or the listed terrace in St. Peter's Place. For the same reason, to the extent that the proposed roof would be seen in vistas towards the more-distant St. Bartholomew's Church, no harm would arise to the setting of that listed building.
61. In summary therefore, the proposed mansard roof would not conflict with the need to demonstrate a high standard of design in respect of the existing terrace and adjoining buildings, having regard to form and detailing, in accordance with Local Plan Policies QD1 and QD14, taking into account also local characteristics in accordance with Policy QD2. As such, strategic views and important vistas, including the setting of listed buildings, would be

¹⁶ Built in 1824-1828 to the designs of Charles Barry (chancel added 1896-1902) – Conservation Area Study para. 2.4.2

¹⁷ para.3.5.1.

preserved, in accordance with Policies QD4 and HE3 and an attractive street frontage would be maintained in accordance with Policy QD5. Accordingly, the appearance and character of the conservation area would be preserved, in accordance with Policy HE6.

The Roofs at, and the Chimney Stacks and Pots between, 21-22 York Place

62. The design of Nos.19-20 and 21-22 comprises handed pairs such that, in respect of the upper storeys, each pair has a substantial forward projection, the front of which is aligned with the ground floor frontage, whilst the main building is recessed at some depth. That forward projection has hipped roof slopes to the sides (on to the recess) and to the front and is surmounted by a modest flat crown. The main element is surmounted by a pitched roof with main slopes to front and rear. The unauthorised works have included the raising of the height of the main roof and the forward projection of Nos.21-22 by up to about 0.7m above that of Nos.19-20. The appeal scheme seeks the reduction in the overall height of the roof structures to align with that of No.20 adjoining.
63. The Council raises no objections to such work, subject to agreement of the materials used in the roof cladding; the form of the structure would be comparable to the arrangement shown in the scheme comprised in the 2004 permission and would be acceptable.
64. Plans, submitted as part of the scheme the subject of the 2004 permission, illustrate the presence of two stacks on the party wall between Nos.21 and 22, each with six pots set one-behind-the-other. Nothing indicates that either or both would be removed as part of that permitted scheme. Both have been removed, though the allegation in the enforcement notice and the evidence to the inquiry refer to the "stack" in the singular. And the proposed roof of Nos.21-22 in the appeal scheme would not include the provision of any re-instated chimney stack.
65. The retention and re-instatement of chimneys and chimney pots are included in those matters which proposals in conservation areas should include, in accordance with Policy HE6. The SPGBH1 seeks the retention of "(i)nteresting features at roof level, such as stacks...". The prominence of chimney stacks, "...forming a rhythmic skyline...", is referred to in the Conservation Area Study¹⁸ as a facet of the wider conservation area, but in its references to York Place, no specific mention is made of such features, apart from that on the gable wall of the Hobgoblin public house.
66. The properties in those parts of the terrace immediately to the north and south of the appeal site lack chimney stacks, though they are prevalent on properties a little further to the south and are found to the north between Nos.28-29, 29-30 and, notably, at the Hobgoblin public house. In the scheme the subject of the 2004 permission, one stack only, set on the end wall of No.26, is included in the proposed roof structure at Nos.23-26, but none is included in the appeal scheme.

¹⁸ Para.3.2.2.

67. Chimney stacks would be an element of the design of period buildings and, by their very nature, they would often be seen prominently. But the roofs of Nos.21 and 22 would form part of a run of properties within York Place without chimney stacks. As a consequence, there is no pronounced pre-existing "rhythm" that would be interrupted, to a material extent, by the omission of such feature in the replacement roof scheme.
68. Hence, the re-instatement of such feature would not be justified in terms of preserving the qualities of the roofscape of the wider terrace. The scheme, without a chimney stack, would be accommodated without detriment to the appearance of these buildings, in accordance with Policies QD1, QD2, QD4 and QD14. Accordingly, the appearance of the conservation area and its character would be preserved in line with Policy HE6; moreover, no harm would arise to the setting of the listed St. Peter's Church.

The Additional Dormer Window at No.24

69. The plans of the then-existing terrace, submitted with the scheme the subject of the 2004 permission, show that the upper parts of the street frontage of Nos.23 and 24 include splayed bays whilst that at Nos.25 and 26 include bowed bays. The fenestration of these upper parts of Nos.23, 25 and 26 had similarities, each possessing a single, large, centrally-placed window at first and second floor levels. This differs from that originally at No.24 in which the large splayed bay window extending through the first and second floors are off-set (towards No.25) and an additional, smaller, second floor window is sited in that part of the façade between No.23 and the larger splayed bay window. This off-set arrangement reflects the accommodation of a ground floor entrance door which now provides street access to the flats at St. Peter's House.
70. The scheme the subject of the 2004 permission includes four dormer windows in the front elevation of the proposed roof structure to Nos.23-26 and each reflecting the alignment of the larger first and second floor windows below, respectively. This is repeated in the appeal scheme, but which also includes an additional dormer window in the roof structure at No.24, situated above the smaller original second floor window. Although not included in the permitted drawings cited in the decision notice of the 2004 permission, the contemporaneous Ash Sakula perspective illustrates this additional dormer window, but it is this additional feature to which the Council now objects, referring principally to the provision of an unbalanced façade at roof level.
71. The SPGBH1 seeks to ensure that dormers are carefully positioned in relation to the arrangement of windows below and the shape of the roof. Some discussion arose at the inquiry about the exact positioning of this proposed additional dormer in relation to spaces about the opening and that the submitted plan illustrates that it would be a little wider than those below. But from the street, in angled upward views and in oblique views from the north-east and south-east, such differences in the relationship between these windows would be barely perceptible as such, being interrupted by the presence and detailing of the junction of the front wall and the sloping face of the roof structure. In longer views across the open gardens, the differences identified would not be immediately obvious, even to an informed observer.
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72. The off-set fenestration of No.24 noticeably differs from that of the more regular arrangement of Nos.23, 25 and 26 and would readily accommodate the additional dormer window without material harm to the appearance of the building or to the terrace of which it forms a part, in accordance with Policies QD1 and QD14. As such, the appearance of the conservation area would be preserved in accordance with Policy HE6 and no harm would arise to the setting of any listed building hereabouts, in accordance with Policies QD14 and HE3.

Glazing Bars, Roof Claddings and the Treatment of Party Wall Upstands

73. The Council seeks glazing-bar sub-divisions of the proposed dormer windows of Nos.25 and 26 that would be appropriate to the Regency character of these buildings and would match the pane size of the windows below. The appellant has no objections to such amendment to resolve valid design concerns.

74. The Revision 3 Plan indicates natural slates to be used on the front roof slope of Nos.23-26. But the cladding materials of the roofs of Nos.21-22, would also need to be of satisfactory quality in order to achieve an appropriate appearance, in accordance with advice in the EH guidance leaflet.

75. The appellant accepts that, in order to achieve a satisfactory appearance, the design and form of the gables and intervening party wall upstands on the proposed roof structure of Nos.23-26 would need to be altered to include concrete copings and to project forward of the slate-clad mansard.

76. All of these matters, which would serve to preserve the appearance of the terrace and that of the conservation area in accordance with the Council's policies, would be addressed by appropriate conditions.

Conditions

77. I have considered the Council's suggested conditions in the light of advice contained in Circular 11/95. As these conditions pertain to the s.78 appeal (Appeal B) (which comprise proposed additions and alterations), the "scheme to be agreed" format discussed at the inquiry would not now be appropriate as that format would primarily pertain to the retention of unauthorised development (that is, matters which would have been the subject of the deemed planning application in Appeal A). I have substituted a period of fifteen months for implementation of approved details to accord with the compliance period of the enforcement notice as I intend to vary and conditions have been re-worded in the interests of certainty.

78. The need to provide details of the glazing bar sub-divisions of the dormer windows of Nos.25 and 26; the sliding sash windows; the colouring of the gable ends of the roof structure at Nos.23 and 26; the painting of the joinery of the dormer windows; the design and external materials of the party wall upstands; the cladding materials of the roofs of Nos.21-22; and further details of the rear elevation of the terrace not shown on the submitted plans, are all matters that would be reasonably required in the interests of the design and appearance of the terrace. However, having regard to Local Plan Policy SU13, the proposed alterations would not be of a scale that would justify the need for a "waste management scheme"; none was required by conditions

imposed on the more-extensive 2004 permission under provisions of the Second Deposit Draft version of the now-adopted Local Plan.

79. A further condition was suggested, requiring implementation of the reversion of the roof structures at Nos.21-22 to their original position and angle of pitch, matching that at No.20, but at the site visit, it was observed that such constructional work was almost complete; a condition in addition that required to address cladding materials would serve no purpose.

Conclusions

80. In respect of Appeal A, for the reasons given above I conclude that a reasonable period for compliance would be fifteen months. I am varying the enforcement notice accordingly, prior to upholding it and the appeal under ground (g) succeeds to that extent. I refuse to grant planning permission on the deemed application.
81. In respect of Appeal B, I have taken into account all of the many other matters raised, including reference to the appeal decision at 5-6 Western Road, Hove¹⁹, but for the reasons given above, I conclude that the appeal should be allowed.

Formal Decision

Appeal A: APP/Q1445/C/08/2079660

82. I allow the appeal on ground (g), and direct that the enforcement notice be varied by the deletion of "52 weeks" and the substitution of "15 months" as the period for compliance. Subject to this variation, I uphold the enforcement notice. The application for planning permission deemed to have been made under s.177(5) of the Town and Country Planning Act 1990 (as amended) is refused.

Appeal B: APP/Q1445/A/08/2089915

83. I allow the appeal, and grant planning permission for regularisation of development as built (commercial on ground floor with residential over); specifically, regularisation of the roof and alterations to the architectural adornments to parapet walls, at St Peter's House and 20-26 York Place, Brighton, BN1 4LG in accordance with the terms of the application, (ref: BH2008/01562), dated 29 April 2008, and the plans submitted with it, comprising Dwg.No.AC/20-26YorkPI/LP; Dwg.No. AC/20-26YorkPI/01ROOF Revision 3; and Dwg.No. AC/20-26YorkPI/ROOFPLANS, subject to the following conditions:
- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The proposed dormer windows shall (a) include glazing-bar sub-divisions to those at Nos.25 and 26 York Place; and (b) comprise painted softwood double-hung vertical sliding sashes with concealed trickle vents. No development shall take place until details of the said dormer windows, including 1:20-scale sample elevations and 1:1-scale joinery sections, shall have been submitted to and approved in writing by the local

¹⁹ Ref: APP/Q1445/C/07/2042680 dated 10 January 2008.

- planning authority. Within 15 months of the date of this permission, the scheme shall be carried out in accordance with the details as approved and they shall be maintained as such thereafter.
- 3) The joinery details referred to in condition No.2 hereof shall be painted externally dark grey (British Standard 4800 – BS18B25).
 - 4) No development shall take place until details of the construction and external materials of the party wall upstands of 23-26 York Place, including 1:5-scale sections, shall have been submitted to and approved in writing by the local planning authority. Within 15 months of the date of this permission, the scheme shall be carried out in accordance with the details as approved and they shall be maintained as such thereafter.
 - 5) No development shall take place until details of a colour scheme for the painting or other treatment of the south elevation of the party wall upstand of 23 York Place and that of the north elevation of the party wall upstand of 26 York Place shall have been submitted to and approved in writing by the local planning authority. Within 15 months of the date of this permission, the scheme shall be carried out in accordance with the details as approved and they shall be maintained as such thereafter.
 - 6) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the roofs of 21-22 York Place hereby permitted shall have been submitted to and approved in writing by the local planning authority. Within 15 months of the date of this permission, the scheme shall be carried out in accordance with the details as approved and they shall be maintained as such thereafter.
 - 7) No development shall take place until full details of the proposed alterations to the rear elevation and roof of the building at 20-26 York Place, at a scale no less than 1:50, shall have been submitted to and approved in writing by the local planning authority. Within 15 months of the date of this permission, the scheme shall be carried out in accordance with the details as approved and they shall be maintained as such thereafter.

G P Bailey
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr J Edmond	Partner, Marrons, Solicitors & Planning Consultants, 1 Meridian South, Meridian Business Park, Leicester LE19 1WY.
He called:	
Dr J Edis BA(Hons) MA PhD MIFA IHBC	Director and Head of Historic Buildings, CgMs Ltd, 26 Holborn Viaduct, London EC1A 2AT;
Mr D Prichard BA(Hons) MA MRTPI	Director of Planning, Marrons, as above.

FOR THE LOCAL PLANNING AUTHORITY:

Miss J Lean	of Counsel, instructed by the Solicitor of Brighton & Hove City Council.
She called:	
Ms E Baxter	Senior Planning Investigations Officer, of the same Council;
Mr G R Bennett BA MA DipTP IHBC	Senior Planner (Conservation), Design and Conservation Team, Environment Department, of the same Council;
Miss K Brocklebank BA DipTP MRTPI	Senior Planning Officer, Development Control Team, of the same Council.

ADDITIONAL DOCUMENTS PUT IN AT THE INQUIRY

- 1 list of appearances for the appellant, put in for the appellant;
- 2 Council's letter dated 29.4.09 notifying interested persons of the date, time and place of the inquiry and circulation list;
- 3 letter 12.5.09 from Planning Inspectorate to Marrons confirming scheduling of inquiry to one day, put in by appellant;
- 4 letter 23.1.09 from Philip Hall Associates to Marrons confirming elements of Mr Prichard's proof of evidence;
- 5 extracts from "*Conservation Principles: Policies and Guidance*" (publ: English Heritage), put in for the appellant;
- 6 notice of refusal of planning permission dated 9.4.09 (Council ref: BH2009/00039) re "*alterations to roof*" & officers' report, put in for the Council;
- 7 Planning Report April 2003 – Ash Sakula Architects, put in for the Council;
- 8 Council's Supplementary Planning Guidance Note "*Roof Alterations and Extensions*" ('SPGBH1'), put in for the Council.

VERIFIED AND ADDITIONAL PLANS PUT IN AT THE INQUIRY

- A with the enforcement notice (Appeal A);
- B1-B2 reduced plans on which Council's decision based (Appeal B) viz:
Dwg.No: AC/20-26YorkPI/LP (submitted 4.8.08),
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- C Dwg.No: AC/20-26YorkPI/01R Revision 1 (submitted 22.7.08);
plan superseded prior to Council's decision (Appeal B) viz: Dwg.No
AC/20-26YorkPI/01R;
- D additional plan submitted prior to Council's decision (Appeal B) viz:
Dwg.No. AC/20-26YorkPI/01R Revision 2;
- E1-E2 additional plans submitted with Appeal B viz:
Dwg.No. AC/20-26YorkPI/ROOF Revision 3 &
Dwg.No. AC/20-26YorkPI/ROOFPLANS, put in by the appellant;
- F extract from Dwg.No. AC/20-26YorkPI/01R Revision 1, (Appeal B)
put in by the Council.



Schedule 1

This is the Schedule 1 referred to in my decision dated: 10th August ,2009.

by **G P Bailey MRICS**

**Land at: 20-26 York Place,
Brighton, BN1 4LG**

References:

APP/Q1445/C/08/2079660

APP/Q1445/A/08/2089915

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

The breach of planning control alleged in the enforcement notice is, without planning permission:-

20 York Place, Brighton

1. The front walls' corbelled eaves feature has been removed and the depth of the eaves fascia altered on the front elevation and in the recess to the front elevation;
2. The right hand side pilaster of the front façade has been removed;
3. The first and second floor front windows in the recess on the north (right hand) side of No.20 do not match the original windows or the design of the windows as shown in the approved drawings, planning permission ref. BH2003/00630/FP dated 19 August 2004 as they lack cills and have exposed sash boxes instead of concealed recessed sash boxes and lack glazing bar sub-divisions;
4. The timber capital mouldings at the tops of the sash boxes of the first and second floor front windows have been removed and not replaced;
5. The corbelled cap to the left hand pilaster of the shopfront, which is shown in the approved drawings, has been omitted; and
6. Installation of a shopfront fascia above the shopfront and new entrance doors between Nos.20 and 21, without prior approval in writing as required by condition No.2 of the approved planning application dated 19 August 2004, ref: BH2003/00630/FP.

21 and 22 York Place, Brighton

1. The hipped roof over Nos.21 and 22 has been raised and the angle of the pitch of the ridged rear part of the roof has been made steeper and the upstand party wall capped in lead;
2. The front walls' corbelled eaves feature has been removed and the depth of the fascias altered to the left of the bay of No.21 and in the recess of No.21;
3. The corbelled eaves feature has been removed and the depth of the fascia altered in the recess on the north side of No.22;
4. The central chimney stack to Nos.21 & 22 has been removed and not replaced;

5. The south pilaster on the front façade of No.21 has been removed and the pilaster capital has been relocated or reformed at a higher level under the raised eaves;
6. The first and second floor windows in the recess in the front façade on the south side of No.21 and on the north side of No.22 do not match the original windows or the design of the windows shown in the approved drawings relating to the planning permission dated 19 August 2004, ref. No. BH2003/00630/FP, as they lack cills and have exposed sash boxes and they lack glazing bar sub-divisions;
7. The installation of the shopfront fascias above the shopfront and the infill of the recess and the new entrance doors between Nos.22 & 23 without prior approval of details in writing as required by condition No.2 of the planning permission dated 19 August 2004, ref: BH2003/00630/FP.

23 York Place, Brighton

1. The parapet wall around the top of the front window bay and its band mouldings and cornice have been removed and not replaced and the mouldings and cornice on the main wall parapet have been removed. The parapet wall has been extended in height and runs straight along the line of the main wall instead of around the window bay;
2. The mansard roof has been constructed without upper roof slopes and with a flat top. The upstand party wall on the front roofslope has been omitted on the south side and the slate roof covering has been run over the party wall and the upstand party walls on the top of the roof on both the south and north sides have been clad in lead instead of having a brick finish. As such, these works are not in accordance with the approved drawings relating to the planning permission dated 19 August 2004, ref. BH2003/00630/FP;
3. The front dormer head is too deep and the window has no glazing bars and is not in accordance with the approved drawings relating to the planning permission dated 19 August 2004, ref. No. BH2003/00630/FP;
4. The installation of shopfront fascia above shopfront.

24 York Place, Brighton

1. The parapet wall above the front window bay has been removed. The height of the parapet wall on either side of the bay has been raised and the parapet wall has been rebuilt along the line of the front main wall of the building;
 2. The capital detail of the pilaster to the left of the front bay window has been removed, the pilaster has been extended to the top of the bay and the corbelling-out of the upper part of the wall has been removed to the south (left) of the bay;
 3. The mansard roof has been constructed without upper roof slopes and with a flat top. The south upstand party wall on the front roofslope in relation to the roof of No.24 has been omitted and the upstand on top of the roof has been completely clad in lead. The whole north party wall with No.25 has been clad in lead, instead of having a brick finish. These works are not in accordance with the approved drawings relating to planning permission dated 19 August 2004, ref. BH2003/00630/FP;
 4. The head of the front dormer above the bay is too deep and the window lacks the vertical glazing bars and is not in accordance with the approved drawings relating to planning permission dated 19 August 2004, ref. BH2003/00630/FP;
 5. An additional front dormer window to the front elevation has been constructed;
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6. The installation of shopfront fascia above shopfront and new entrance door, without prior approval in writing as required by condition No.2 of the planning permission dated 19 August 2004, ref: BH2003/ 00630/FP.

25 York Place, Brighton

1. The first and second floor front curved sash window boxes with divided pane curved hornless sashes have been removed and replaced with new straight sash boxes double glazed straight sashes without glazing bar sub-divisions and with horns;
2. The mansard roof has been constructed without second upper roof slopes and with a flat top. The right-hand upstand party wall on the front roofslope has been omitted and the upstand on top of the roof has been completely clad in lead.
3. The front dormer head is too deep and the window does not have the two vertical glazing bars, as shown on the approved drawings relating to planning permission dated 19 August 2004, ref. BH2003/00630/FP;
4. The installation of shopfront fascia above shopfront and new entrance doors.

26 York Place, Brighton

1. The first and second floor front curved sash window boxes with divided pane curved hornless sashes have been removed and replaced with new straight sash boxes double glazed straight sashes without glazing bar sub-divisions and with horns;
2. The first floor front window and cill is unauthorised;
3. The mansard roof has been constructed without upper roof slopes and with a flat top. The upstand party wall on the north side of the front roofslope has been omitted and the upstand on top of the roof has been completely clad in lead, instead of having a brick finish;
4. The front dormer head is too deep and the window should have two vertical glazing bars, as per the approved drawings;
5. The installation of shopfront fascia above shopfront and new entrance doors without prior approval of details in writing as required by condition No.2 of the planning permission dated 19 August 2004, ref: BH2003/00630/FP;
6. The corbelled cap to the top of the pilaster to the south side of the shopfront opening has been removed.

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Schedule 2

This is the Schedule 2 referred to in my decision dated: 10th August ,2009.

by **G P Bailey MRICS**

**Land at: 20-26 York Place,
Brighton BN1 4LG**

References:

APP/Q1445/C/08/2079660

APP/Q1445/A/08/2089915

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

The requirements of the enforcement notice are:-

20 York Place, Brighton

1. Remove the existing front eaves fascias and reinstate the corbelled eaves features and eaves features and eaves fascia on the front elevation and in the recess to the front elevation, exactly to their original design, dimensions and materials;
2. Reinstall the north (right hand) side pilaster of the front façade to match exactly the original;
3. Remove the first floor front window in the recess to the north (right) of No.20 and reinstate a single glazed timber sash window with concealed sash boxes and glazing bar sub-divisions in the original design, dimensions, materials and finish to match the original. Reinstall the masonry cill to its original design, dimensions, materials and finish;
4. Remove the second floor front windows in the recess to the north (right) of No.20 and reinstate the recessed blind window and cill to their original design and dimensions;
5. Reinstall the timber capital mouldings at the tops of the sash boxes of the first and second floor front bay windows to match the originals; and
6. Remove the shopfront fascia above the shopfront and the proposed new entrance doors between Nos.20 and 21.

21 and 22 York Place, Brighton

1. Remove the existing roof and raised walls and upstand party wall and reinstate the hipped roof over Nos.21 and 22 and the ridged rear part of the roof to its original height, pitch, design and materials;
2. Reinstall the front wall's and recess wall's corbelled eaves features and fascias to their original design, dimensions and materials;
3. Reinstall the central chimney stack and its chimney pots to their original design, dimensions, materials and finishes;
4. Reinstall the south (left hand) pilaster on the front façade of No.21 and reinstate the pilaster capital in its original position, all in the original design, dimensions, materials and finishes;

5. Remove the first floor front window in the recess to the north (right) of No.20 and reinstate the single glazed timber sash window with concealed sash boxes and glazing bar sub-divisions in the original design, dimensions, materials and finishes to match the original. Reinstall the masonry cill to its original design, dimensions, materials and finishes;
6. Remove the second floor front windows in the recess to the north (right) of No.20 and reinstate the recessed blind window and cill to their original design, dimensions, materials and finishes;
7. Remove the first floor front window in the recess to the north (right) of No.22 and reinstate the single-glazed timber sliding sash window with concealed sash boxes and glazing bar sub-divisions in the original design, dimensions, materials and finishes and method of opening to match the original. Reinstall the masonry cill to its original design, dimensions, materials and finishes;
8. Remove the second floor front windows in the recess to the north (right) of No.22 and reinstate the recessed blind window and cill to their original design, dimensions, materials and finishes;
9. Reinstall the timber capital mouldings at the tops of the sash boxes of the first and second floor front bay windows of Nos.21 and 22 in their original design, dimensions, materials and finishes; and
10. Remove the shopfront fascias above the shopfront and the new entrance doors between Nos.22 and 23.

23 York Place, Brighton

1. Remove the section of parapet wall above the front bay window, reduce the height of the parapet wall on either side of the bay to its original height, reinstate the parapet wall around the top of the front window bay in its original position, and reinstate the band mouldings and cornice above the second floor window and on the parapet wall, all to their original heights, designs, dimensions, materials and finishes;
2. Remove the mansard roof extension and its dormer window and reinstate the original roof structure party walls, chimney stacks and pots to their original heights, designs, dimensions, materials and finishes; and
3. Remove the shopfront fascias above the shopfront.

24 York Place, Brighton

1. Remove the section of parapet wall above the front bay window and reduce the height of the parapet wall on either side of the bay to its original height and design, including its corbelling out and reinstate the parapet wall around the top of the front window bay in its original position, height, design, dimensions, materials and finishes;
2. Reduce the height of the pilaster to the (south) left of the front bay window and reinstate it to its height and reinstate the capital detail at its top, all in their original designs, dimensions, materials and finishes;
3. Remove the mansard roof extension and its dormer window and reinstate the original roof structure, party walls and chimney stacks and pots to their original designs, heights, dimensions, materials and finishes; and
4. Remove the shopfront fascia above the shopfront and new entrance doors.

25 York Place, Brighton

1. Remove the first and second floor front windows and reinstate single glazed timber curved sash window boxes with divided paned curved hornless sashes to match exactly the design, dimensions, materials and finishes of the original windows;
2. Remove the mansard roof extension and its dormer window and reinstate the original roof structure, party walls, chimney stacks and pots to their original heights, designs, dimensions, materials and finishes;
3. Remove the shopfront fascia above the shopfront and new entrance doors.

26 York Place, Brighton

1. Remove the first and second floor front windows and reinstate single glazed, timber, curved, sliding sash window boxes with divided paned, curved, hornless sashes to match exactly the design, dimensions and finishes and method of opening of the original windows;
2. Remove the mansard roof extension and its dormer window and reinstate the original roof structure, party walls, chimney stacks and pots to their original heights, designs, dimensions, materials and finishes;
3. Remove the shopfront fascia above the shopfront and new entrance doors; and reinstate the corbelled cap to the top of the pilaster to the south (left hand) side of the shopfront opening in its original dimensions, design, materials and finishes.

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