



## Appeal Decision

Site Visit made on 19 October 2021

**by S Edwards BA MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 November 2021**

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**Appeal Ref: APP/Q1445/W/21/3270349**

**83 Western Road, Brighton BN1 2HA**

- 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 M. Saleem Chudhery against the decision of Brighton & Hove City Council.
  - The application Ref BH2020/03696, dated 15 December 2020, was refused by notice dated 17 February 2021.
  - The development proposed is Retrospective Planning Application for External Roller Grill & Shutters.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) published on 20 July 2021 sets out the Government's planning policies for England. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. Accordingly, I shall determine the appeal having regard to the updated Framework, on which the main parties had the opportunity to comment during the course of the appeal.
3. The Council's Decision Notice refers to several emerging Policies of the Brighton and Hove City Plan Part Two (the City Plan Part 2). Although it has yet to be found sound, the City Plan Part 2 has nevertheless reached an advanced stage of preparation, and the relevant policies can therefore be afforded moderate weight.
4. Within the decision notice, the Council's reason for refusal refers to emerging Policy DM27 (Listed Buildings) of the City Plan Part 2. During the course of the appeal, the Council has however clarified that emerging Policy DM27 was quoted in error, and that emerging Policy DM29 (The Setting of Heritage Assets) should have instead been referred to within the reason for refusal. The appellant was provided the opportunity to submit comments on this issue, and I have taken emerging Policy DM29 into consideration for the determination of the appeal.
5. The appeal development is part retrospective, and I have considered the appeal on this basis.

## **Main Issue**

6. The main issue is whether the development would preserve or enhance the character or appearance of the Regency Square Conservation Area, and the special interest of the nearby Grade II listed building, as derived from its setting.

## **Reasons**

7. Located within the Regency Square Conservation Area, the appeal site comprises a three-storey building, which sits prominently at the junction between Western Road and Preston Street. The ground floor premises are in commercial use, and include a relatively modern shopfront and a boxy and unattractive security grille mechanism, which presently sits underneath the fascia.
8. Based on my own observations, I find that the special interest of the Regency Square Conservation Area derives primarily from its character as a fine example of an area which rapidly developed in the 19<sup>th</sup> century. This is reflected by the relatively homogeneous architectural style of the buildings and the strong grid pattern which characterises the streets. That said, the grander houses and terraces certainly contrast with the more modest and simpler buildings, which front the commercial streets such as Western Street.
9. There is no doubt that the appeal building has lost its original shopfront, and the existing commercial frontage is of little architectural or historic interest. Further harm is caused by the existing grille mechanism housing, which presently sits prominently beneath the fascia and stands out as an incongruous, projecting feature. The appeal proposal seeks to address the concerns previously raised by the Local Planning Authority, by enlarging the size of the fascia sign to conceal the security grille mechanism.
10. As a result of the proposed changes, the fascia would however encroach upon the shop windows. It would become overly dominant and appear as a disproportionate feature relative to the overall appearance of the shopfront. The changes to the fascia would consequently have a detrimental effect on the appearance of the host building, but also erode the sense of uniformity created by the surrounding shopping frontages. The proposed development would undermine the contribution which the appeal building makes to the appearance of the Conservation Area as a whole, and have a harmful effect on the street scene.
11. For these reasons, the harm caused by the proposal would not be satisfactorily by a condition preventing the addition of advertising within the enlarged section of the fascia. Whilst my attention has been drawn to a similar arrangement within proximity to the appeal site, there is no substantive evidence before me which demonstrates that these alterations have been granted planning permission.
12. Furthermore, the appellant's submissions refer to a number of shopfronts of varying quality, which are situated within proximity to the appeal site. However, I do not know the circumstances that may have led to the installation of other shopfronts in the area, and these provide no justification for the scheme before me. These considerations are therefore ascribed very limited weight.

13. Concerns have also been raised by the Council regarding the effect of the proposal on the significance of the nearby Grade II listed former HSBC building, as derived from its setting. The details of the listing description are not before me, but it is clear that the building holds significant architectural interest and would have been deliberately designed to be prominent, due to its highly decorated front elevation, grand entrance and imposing presence on the street scene. Whilst the appeal premises are not immediately adjacent to this Grade II listed building, the proposed development would appear visually intrusive within the setting of this designated heritage asset, to the detriment of its significance.
14. For the foregoing reasons, the development would fail to preserve the character and appearance of the Regency Square Conservation Area and the special interest of the nearby Grade II listed building, as derived from its setting. Accordingly, it conflicts with Policies QD8, QD10, QD14, HE3 and HE6 of the Brighton & Hove Local Plan 2005<sup>1</sup>, CP12 and CP15 of the Brighton & Hove City Plan Part One<sup>2</sup> (the City Plan Part 1), as well as emerging Policies DM23, DM24, DM26 and DM29 of the City Plan Part 2. Amongst other things, these seek to conserve or enhance the City's heritage, and require a high standard of design, notably in respect of proposals affecting conservation areas and the setting of listed buildings.

### **Heritage Balance**

15. The appeal scheme would cause less than substantial harm to the special interest of the Regency Square Conservation Area and the setting of the Grade II listed former HSBC building, to which I ascribe considerable importance and weight. In such circumstances, paragraph 202 of the Framework states that the harm should be weighed against the public benefits of the development. I understand that the windows of the appeal premises have been previously damaged and broken, and have given rise to significant repair costs as a result. Although there would be security benefits associated with the appeal development, it has not been demonstrated that there are no other alternatives, which would be visually less intrusive. Overall, I have been presented with no public benefits which would outweigh the harm resulting from the development.

### **Conclusion**

16. There are no material considerations, which indicate that the appeal should be determined, other than in accordance with the development plan. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal is dismissed.

*S Edwards*

INSPECTOR

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<sup>1</sup> Retained Policies March 2016.

<sup>2</sup> March 2016.