



# Appeal Decision

Site visit made on 23 October 2009

by **Y Mwanza BA(Hons) MRTPI**

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

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**Decision date:  
10 December 2009**

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## Appeal Ref: **APP/Q1445/A/09/2105147**

### **Amber Court, 38 Salisbury Road, Hove, East Sussex BN3 3AA**

- 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 Vic Marchant against the decision of Brighton and Hove City Council.
- The application Ref BH2008/03885, dated 12 December 2008, was refused by notice dated 26 February 2009.
- The development proposed is the formation of an additional storey to create 2 no. 2 bed flats.

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### **Procedural Matter**

1. The appellant has submitted revised drawings after the Council's decision with different window detailing. I consider the alterations to be significant in that they change the window design and make them larger. I am satisfied that the legitimate interests of the Council and interested parties in this proposal would be unduly prejudiced were I to base my decision on them so my decision will be based upon the drawings submitted with the planning application.

### **Decision**

2. I dismiss the appeal.

### **Main issues**

3. I consider the main issue to be the effect of the development on (i) the character and appearance of the building and the area and (ii) the effect of the development on the living conditions of neighbouring occupiers with particular reference to daylight and sunlight.

### **Reasons**

#### *Character and Appearance*

4. The Council does not object in principle to the additional storey, but does, however, object to the front stairwell and fenestration. Policies QD1, QD2 and QD14 of the Brighton and Hove Local Plan indicates that development should respond positively to the scale, proportions and style of their local surroundings. Furthermore buildings should be compatible in terms of scale, massing, height and design of existing buildings.
5. When I visited the appeal site and the surrounding area I saw a number of flatted developments of different designs and similar in height to the appeal

proposal. The proposed additional storey would in the main be setback about 1.5m from the front elevation of the building, however, in order to accommodate the stairwell there would be a step forward that would be flush with the front elevation of the lower floors. In my opinion this forward projection would not be unduly prominent in the streetscene and would not be harmful to the character and appearance of the building or the area, particularly given what I saw to be the varied character of the area and building.

6. Turning to the fenestration, Policy QD14 of Brighton and Hove Local plan requires development that is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area. I am of the opinion that the fenestration, particularly on the front elevation of the proposed extension relates poorly to the proportions, alignment and rhythm of the windows on the lower floors. Although the windows have been aligned vertically on one side or the other of the windows below in my view the lack of complete alignment would be harmful to the character and appearance of the building and the area.
7. Although I have found the stairwell to be acceptable, overall, on the first main issue, I conclude on this issue that the proposal would be unacceptable because of the harm caused by the window design. The proposal would not comply with Local Plan Policies QD1, QD2 and QD14 of the Brighton and Hove Local Plan.

*Living Conditions*

8. A number of interested parties from Palmeira Avenue have expressed concern about overshadowing, privacy and a loss of light, indeed I viewed the appeal site from a number of flats in Palmeira Avenue. Policy QD14 of the Brighton and Hove Local plan requires account to be taken of sunlight and daylight factors, together with orientation, slope, overall height relationships and how overbearing the proposal would be.
9. While I note that the levels shown on the drawings are not representative of the actual levels, I was able to visit a number of the adjacent properties and was able to make a full assessment of the proposal taking into consideration the actual ground levels. I saw that garden levels in Palmeira Avenue were significantly higher than those at the appeal site and at the time of my visit I saw that properties in Palmeira Avenue were not being overshadowed by Amber Court.
10. Although the appeal building is visible from the rear gardens and rooms of properties in Palmeira Avenue I am satisfied that the roof level addition and privacy screen with their respective setbacks from the rear elevation would not significantly affect the daylight and sunlight of neighbouring residents to the extent that would warrant refusal of permission. The appeal proposal would be setback by about 3m from the rear elevation of the building. A privacy screen would be erected at roof level and would be approximately 1.5m high and setback from the rear elevation by about 0.8m. In my opinion this configuration would be sufficient to ensure minimal harm with regard to daylight and sunlight to the properties that back onto the appeal site in Palmeira Avenue.

11. With regard to privacy I am satisfied that the proposed privacy screen would be sufficiently high to avoid overlooking and a loss of privacy.
12. I conclude on this issue that the proposal would comply with Local Plan Policies QD14 and QD27 of the Brighton and Hove Local Plan.

**Conclusion**

13. Notwithstanding my conclusion on living conditions, this is outweighed by my conclusion that the development would unacceptably harm the character and appearance of the building and the surrounding area. For the reasons given and having had regard to all other matters raised I therefore conclude that the appeal should fail.

*Y Mwanza*

INSPECTOR

