



Appeal Decision

Site visit made on 4 January 2010

by **Michael Evans BA MA MPhil DipTP MRTPI**

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

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Decision date:
12 January 2010

Appeal Ref: APP/Q1445/A/09/2108868 **43 Osborne Villas, Hove BN3 2RA**

- 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 Neil Bloomfield against the decision of Brighton and Hove City Council.
- The application Ref: BH2008/02561, dated 2 November 2008, was refused by notice dated 19 January 2009.
- The development proposed is to replace and extend an existing wooden balcony to create a wooden platform with a storage room beneath.

Decision

1. I dismiss the appeal.

Main issues

2. I consider that the main issues in this appeal are:
 - The effect on the living conditions of the occupiers of the adjacent dwellings.
 - The effect on the character and appearance of the Cliftonville Conservation Area.

Reasons

3. The proposed platform has already been constructed in the rear garden of the mid terrace dwelling at no. 43, which is located within the Cliftonville Conservation Area. The submitted plans show that the proposed feature is appreciably larger than the relatively modest balcony that it has replaced, resulting in a more useable outside area with a significantly greater potential for overlooking. There are windows facing towards the appeal site in the side of the rear projection at no. 41, where the Council indicates that the building is subdivided into basement and upper floor dwellings.
4. Because of its elevation and proximity the balcony has resulted in unacceptable overlooking of these windows as well as the adjacent rear garden. Even taking into account the relatively densely developed urban environment the proposal has therefore resulted in an undue loss of privacy and consequent harm to the living conditions of the occupiers of the neighbouring dwellings. This is contrary to Brighton and Hove Local Plan 2005 policies QD14 and QD27, which seek to prevent such adverse effects.
5. The proposed alteration extends the full depth of the rear garden. Because of this factor and the elevated nature of the platform it is an overly dominant and incongruous feature that unacceptably detracts from the traditional character of

the rear garden environment of the Conservation Area. Despite not being visible from public viewpoints this can be appreciated from surrounding properties. As a result the proposal has failed to preserve or enhance the character or appearance of the Conservation Area, contrary to this aim of Local Plan policy HE6.

6. The Appellant explains that the proposal was believed to be permitted development and that there was no guidance concerning platforms on the Council's website. Letters from the owners of the adjoining dwellings indicating that there are no objections to the proposal have been submitted. Nevertheless, factors such as these do not, in themselves, confer acceptability and this appeal must be considered strictly on its planning merits. I acknowledge the desire of the Appellant for a rear platform at kitchen level. However, this provision is at the undue expense of the living conditions of the occupiers of adjacent dwellings and the character and appearance of the Conservation Area. I conclude that none of these factors, or any other matter raised, are sufficient to outweigh the adverse effects that have resulted.
7. For all the above reasons and taking account of all other matters raised, the appeal is dismissed.

M Evans

INSPECTOR