



# Appeal Decision

Site visit made on 4 March 2010

by **Megan Thomas BA Hons in Law,**  
Barrister

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

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**Decision date:**  
**29 March 2010**

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## Appeal Ref: APP/Q1445/A/09/2112258

### 116 Goldstone Crescent, Hove, East Sussex BN3 6BF

- 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 Caveh Sobhanpanah against the decision of Brighton & Hove City Council.
- The application Ref BH2009/00864, dated 14 April 2009, was refused by notice dated 29 July 2009.
- The development proposed is the construction of a three storey building with flat roof comprising 1no. one bed and 2no. two bed flats, to include 3no. rooflights, cycle store and refuse facilities.

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## Decision

1. I dismiss the appeal.

## Procedural issues

2. I have used the description of the development from the Notice of Decision as I consider that this is the more accurate than the description given on the planning application form.

## Main issues

3. The main issues are:
  - The effect of the proposal on the living conditions of the occupants of 114 and 116 Goldstone Crescent and flat 32 Balmoral Court by reason of privacy, outlook and light.
  - The effect of the proposal on the character and appearance of the area.
  - Whether the flats would be built to Lifetime Homes standards having regard to policy HO13 of the Brighton & Hove Local Plan 2005 'LP'.

## Reasons

### *Effect on Living Conditions*

4. The appeal site is part of the rear garden to 116 Goldstone Crescent which is one of a row of two storey detached houses along that Crescent. It is a very steeply sloping site and it rises up, east to west, to a pavement serving Nevill Road. The proposed flats would be directly to the north of one of the four large blocks of purpose-built flats known as Balmoral Court. The area is predominantly residential in nature and is near a busy main road.

5. The proposal consists of a three storey residential development comprising three flats - one being a maisonette. The maisonette would be on the lower ground floor with private outside amenity space. The flats would have private balconies. The external walls would be smoothly rendered and painted cream with red stock brick to the sills and heads of windows and doors. There would be sedum matting on the flat roofs to create a green environment.
6. At its rear (eastern elevation), the proposal as a whole would have three windows and a set of patio doors and steps down to the garden. There are several habitable rooms within no.114 which would face the eastern elevation and on my site visit I was able to gain access to these rooms and to the terraced garden of no.114. The nearest Balmoral Court block (which has with 5 storeys of accommodation) already strongly influences the outlook from no.114 but that block is not orientated directly towards no.114 and this gives some relief to the rear aspect from no.114. The proposal, whilst being considerably smaller than Balmoral Court, would be orientated directly towards the rear of no.114. That factor, coupled with the steep slope of the land, render the separation distances from the two elevations insufficient to overcome the sense of enclosure that the occupants of 114 would experience when either inside their house or using their rear garden.
7. The impact on privacy for the occupants of no.114 would also be substantial and adverse. I consider that the planting of trees or shrubs in the rear garden of the proposal would be likely to add to a sense of enclosure when in the house or garden of no.114 if they were of a sufficient height to reduce overlooking between windows within the two sites. I would also not be confident that any such trees, if planted, would have a long term future as they would be likely to reduce views from the new development and the incentive to retain them would be weak in the long term.
8. Whilst 116 Goldstone Crescent is not orientated directly towards the proposal, the proposal's position directly above no.116 and its proximity to no.116 would result in it dominating the outlook from the rear of no.116 and unduly compromising the privacy of occupants in the house or in the garden.
9. Turning to the issue of light reaching neighbouring dwellings, given the separation distances and having regard to technical evidence on daylighting and sunlighting produced by the appellant, I do not consider that there would be an unacceptable loss of light from the rooms or garden of no.114 nor from the houses at 116 or 118 Goldstone Crescent.
10. 32 Balmoral Court is the ground floor flat situated on the north side of the nearest block to the appeal site. It would have a bedroom window which would face the southern elevation of the new flats. There would be two windows in the southern elevation serving a bathroom and a study and above that the occupants of the ground floor flat would have to walk down the side of the block to gain access to that flat. Whilst I appreciate that there would be opportunities for enhanced boundary treatment and the possibility of using obscured glass in the flank windows of the proposal, there would continue to be the potential for a significant loss of privacy to flat 32. Given the separation distance and the height of the proposal opposite the bedroom window to flat 32, there would be an unacceptable loss of outlook from that window.

11. On my site visit I was able to gain access to flat 32 Balmoral Court. Notwithstanding that the affected bedroom at 32 would meet the 1% average daylight factor (falling from 1.7% to 1% which is the minimum recommended for a bedroom in BRE 'Site Layout Planning for Daylight & Sunlight'), having had regard to the overall size of the flat and all the other factors set out in the appellant's Daylight and Sunlight Study, I consider that the proposal would cause an unacceptable loss of light to this room.
12. In terms of effects on living conditions of nearby neighbours, I conclude that the proposed development would cause an unacceptable loss of outlook and privacy to 114 and 116 Goldstone Crescent and to flat 32 Balmoral Court, and an unacceptable loss of light to flat 32 Balmoral Court. It would be in conflict with policy QD27 of the LP.

*Effect on character and appearance of the area*

13. Care has been taken to echo some of the architectural features found at Balmoral Court in the proposed development, such as the fenestration details, the use of balconies and the use of railings. However, overall the design does not relate well to Balmoral Court or to other buildings in Nevill Road. As the Council have identified, a building which relates well in visual terms to the height and scale of Balmoral Court would, by virtue of the gradient of the land, tend to dominate the properties on Goldstone Crescent. However, from the Nevill Road perspective, the contrast in height between the proposal and Balmoral Court looks awkward and the contrast in materials and textural finish is stark. Whilst national policy guidance guards against slavishly requiring replication of existing styles and forms of existing housing in an area or rejecting designs that are unfamiliar, there continues to be a need to ensure that a different style of housing fits sufficiently well into its local context and does not jar with what is there already. This proposal, whether taking its appearance from the rear or the front, does not make a positive contribution to its environment. I conclude therefore that the proposal would unacceptably harm the character and appearance of the area contrary to policies QD1 and QD2 of the LP.

*Adequacy of Lifetime Homes Standards*

14. The Lifetime Homes Standards do not require level access from the street to all new flats. The aim of policy HO13 of the LP is to ensure that new dwellings can be adapted to meet the needs of people with disabilities without major structural alterations. Whilst there are steps down to the lower ground floor flat from street level and structural alterations might be needed to facilitate access for a wheelchair user or a person with disabilities, this would not necessarily involve major structural alterations especially given the proposed construction features of the steps. In all respects the flats meet the terms of policy HO13. I conclude that the proposal would be adequate in meeting Lifetime Homes Standards and would not be contrary to policy HO13 of the LP.

**Conclusions**

15. The addition of 3 flats of this size to the housing stock in circumstances where they meet Lifetime Homes standards, make efficient use of previously-developed urban land, are in a location which is well-served by public transport and where there is a shortfall in meeting the 5 year deliverable supply of
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housing in the Borough are all benefits which I have put into the planning balance in making my decision. However, in this case having had regard to those benefits and the representations made by supporters of the scheme, I consider that the harm flowing from the adverse effects on the character and appearance of the area and the adverse effects on living conditions from loss of privacy, outlook and light clearly outweighs those considerations.

16. Accordingly, having regard to all representations made, I dismiss the appeal.

*Megan Thomas*

INSPECTOR