



Appeal Decision

Accompanied site visit made on 23
March 2010

by **P E Dobsen MA (Oxon) DipTP MRTPI**
FRGS

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

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Decision date:
25 March 2010

Appeal Ref: APP/Q1445/A/09/2107590 36 Victoria Street, Brighton BN1 3FQ

- 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. I. Heath against the decision of Brighton & Hove City Council.
- The application (Ref BH2009/00083), dated 6 January 2009, was refused by notice dated 21 April 2009.
- The development proposed is to "provide staircase access from existing terrace balcony to ground floor courtyard".

Decision

1. I dismiss the appeal.

Procedural matter

2. Since the staircase which is the subject of the appeal has already been installed, I have treated the application as a retrospective one for its retention.

Main issue

3. The main issue (in the light of the relevant development plan policies) is whether the staircase significantly harms the residential amenities of No. 35 Victoria Street, in terms of increased overlooking and a consequent loss of privacy.

Reasons

4. The appeal site is at the rear of No.36, a terraced dwelling house which lies on the east side of Victoria Street, and within the Montpelier and Clifton Hill Conservation Area. The lightweight metal staircase links a small ground floor patio area with a first floor terrace, (which has its principal access from an adjoining bedroom.) Contained within the property, it can only be used by the occupiers of No.36. The staircase runs directly alongside the common property boundary with No.35, the adjacent dwelling to the north, whose occupier objects to actual and potential overlooking of his property from anyone using it.
5. During my site visit I saw that the street block between Victoria Street and Clifton Place to the east is densely built-up with 2- and 3-storey terraced houses, such that there are in general only narrow gaps between their backs. Several of them have small patios etc. at the rear which, although partially

enclosed by walls, can be overlooked by higher level windows, such that privacy hereabouts is at a premium.

6. There is a low wall between Nos. 35 and 36, but any user of the staircase is and would be able readily to see over it, and into both the patio garden at No. 35, and into a first floor habitable room there. This room has a projecting window in very close proximity to the staircase.
7. Although, as I have indicated, the relationship between the properties in this part of the streets is such that none are free of being overlooked to some extent, I consider that the staircase has significantly increased the potential for overlooking of No.35, compared with the situation before it was installed, and over and above any potential overlooking from the terrace balcony alone. Despite the arguments on behalf of the appellant, it seems to me that this has materially reduced its privacy and the residential amenity of its occupier/s. This is contrary to the provisions of policies QD14b (*extensions and alterations*) and QD27 (*protection of amenity*) of the Brighton and Hove Local Plan 2005, and is the reason why the appeal must fail.
8. As I have mentioned the locality falls within a conservation area, but in this tightly contained situation at the rear of the house I am satisfied that the staircase has no significant effect - for better or worse - on the character or appearance of the CA as such. Therefore the appeal does not fail for that reason. I have considered all the other points raised in the representations, including those made at the application stage, but there are none which alter or outweigh my conclusions on the main town planning issue.

Paul Dobsen

INSPECTOR