



# Appeal Decision

Site visit made on 28 September 2010

by **John Millard DipArch RIBA FCI Arb**

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**12 October 2010**

## **Appeal Ref: APP/Q1445/D/10/2134603** **41 Church Road, Portslade, Brighton BN41 1LB**

- 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 Miss A Court against the decision of Brighton & Hove City Council.
- The application (Ref: BH2010/00629) dated 5 March 2010 was refused by notice dated 25 May 2010.
- The development proposed is described as extension of the existing conservatory by 475mm.

### **Decision**

1. I allow the appeal and grant planning permission for extension of the existing conservatory at 41 Church Road, Portslade, Brighton BN41 1LB in accordance with the terms of the application Ref: BH2010/00629 dated 5 March 2010 and the plans submitted therewith.

### **Preliminary Matter**

2. As the development was carried out before the date of the application, I shall treat the application as one made under section 73A of the Act.

### **Main Issue**

3. The main issue in this appeal is the effect of the extension to the conservatory on the living condition of the occupiers of No 43 Church Road with particular reference to outlook and sense of enclosure.

### **Reasons**

4. The appeal property is a two storey Victorian terraced dwellinghouse which has a recently constructed conservatory, located in the re-entrant space between the two storey projecting rear wing of the dwelling and the boundary with the mirrored No 43. It was built as permitted development to replace a previously existing conservatory in the same location, of similar height and profile. It is, however, of more robust construction and, in particular, has a 1.85m high brick wall on the common boundary, with clerestory windows above, compared with the previous conservatory which appears to have been of all timber construction with a higher proportion of glazing on the boundary.
5. To the extent that the conservatory is a direct replacement for its predecessor, the Council accepts that it is not subject to planning control. It has, however, been extended by a little under 500mm further into the garden and it is this extension to which the retrospective planning application relates. As extended,

the conservatory has an overall depth of about 3.4m and aligns with the face of the rear wing. It is of a design that is sympathetic to the host dwelling and causes no harm to the character and appearance of the property.

6. The re-entrant space to the neighbouring No 43 has been partially covered with corrugated plastic sheeting on a timber frame but has otherwise not been infilled. There are two windows that look out onto this space, one from the dining room, in the rear wall of the main part of the house and facing towards the garden, and the other from the kitchen, in the flank wall of the rear wing and facing directly towards the appellant's conservatory. Policies QD14 and QD27 of the adopted Brighton & Hove Local Plan 2005 (LP) seek, among other things, to protect the amenities of neighbouring occupiers, including outlook.
7. Because of its distance from the main rear wall, and as it can be seen from the dining room only at a very oblique angle, the modest addition to the conservatory has had little or no impact on view from that room. Seen through the kitchen window, the extension has marginally greater visual impact but, because of the extension's modest bulk, particularly when compared with previously existing boundary treatment, this is not sufficient to materially detract from the outlook or increase the viewer's sense of enclosure.
8. I therefore find that the extensions accords with the requirements of LP Policies QD14 and QD27, insofar as they relate to the effect of development on the amenities of neighbouring occupiers, and conclude that the extension causes no material harm to the living conditions of the occupiers of No 43 Church Road, with particular reference to outlook and sense of enclosure.
9. I have considered all other matters raised, including the neighbouring occupiers' concerns regarding a perceived loss of daylight, but found nothing that changes the balance of my decision that the appeal should be allowed and planning permission granted. I have also considered the need for conditions in the context of DoE Circular 11/95 – *The Use of Conditions in Planning Permissions* but, as none have been suggested by the Council, and as the development has already been satisfactorily completed, I have reached the conclusion that none are necessary.

*John G Millard*

INSPECTOR