



Appeal Decision

Site visit made on 14 April 2008

by **J O Head** BSc(Econ) DipTP MRTPI

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

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Decision date:
22 April 2008

Appeal Ref: APP/Q1445/A/08/2062462

69 Eldred Avenue, Brighton, East Sussex BN1 5EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mrs D Jones against the decision of Brighton & Hove City Council.
- The application Ref BH2007/00916, dated 26 February 2007, was approved on 31 May 2007 and planning permission was granted subject to conditions.
- The development permitted is the erection of a single storey conservatory at the rear (part retrospective).
- The condition in dispute is No 2, which states that: *The windows to the southern side elevation of the conservatory shall be obscurely glazed and thereafter permanently retained as such.*
- The reason given for the condition is: *To safeguard the privacy of the occupiers of No 67 Eldred Avenue Brighton and to comply with policies QD14 and QD27 of the Brighton and Hove Local Plan.*

Decision

1. **I allow the appeal**, and vary the planning permission Ref BH2007/00916 for the erection of a single storey conservatory at the rear (part retrospective) at 69 Eldred Avenue, Brighton, granted on 31 May 2007 by Brighton & Hove City Council, by deleting condition No 2.

Main issue

2. The main issue is whether the condition is reasonable and necessary to avoid harm to the living conditions of the occupiers of No 67 Eldred Avenue.

Reasons

3. The conservatory has been constructed and was in use at the time of my visit. It varies from the planning permission in having an additional three full height windows on the side elevation adjacent to No 67, in place of the high level windows that were shown on the submitted drawings. It was clarified at the site visit that Condition No 2 is intended to apply to the two windows that have been permitted on the angled elevation of the conservatory, on the basis that the other windows facing No 67 were to be at high level only. The variation from the permitted plans is a matter that may need to be resolved between the Council and the appellant. I have reached my decision having regard to the

details to which the planning permission relates and my considerations are therefore confined to the impact of the permitted windows on the angled elevation.

4. Eldred Avenue is part of a residential development on a hillside location to the north of Brighton city centre. The appeal property is at a higher level than No 67 and is itself lower than the properties further to the north and in Copse Hill. As a result of the local topography, there is already a significant degree of overlooking of the rear gardens of the dwellings in this part of Eldred Avenue, especially from windows at first floor level.
5. The conservatory at the appeal property appears to have been constructed on an existing terrace that would have permitted views to the south over adjoining gardens. Although the erection of the conservatory might mean that this raised area will now be more intensively used, the design of the permitted scheme would have prevented any direct views at close range across to the rear of No 67 and its private patio. The main aspect of the angled windows to which the condition relates is towards the middle and end parts of the adjoining gardens. Although they allow a view of the rear wall and patio of No 67, this requires an observer to stand close to the windows. Even then I was unable, at such an oblique angle, to see directly into any of the rear facing rooms of No 67. Furthermore, the view towards the patio of No 67 is screened to a large extent by the fence and trellis that has recently been erected along the boundary of that property.
6. Bearing in mind that existing privacy standards in the rear gardens of the surrounding dwellings are not high, the existence of the angled windows in the conservatory at the appeal property does not, in my judgment, give rise to any material further overlooking of the neighbouring property and its garden. Accordingly, I see no need for these windows to be obscurely glazed. I conclude that Condition 2 is neither reasonable nor necessary and that its removal would not result in any conflict with Policies QD14 or QD27 of the Brighton & Hove Local Plan or cause harm to the living conditions of the occupiers of No 67 Eldred Avenue.

John Head

INSPECTOR