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## Appeal Decision

Site visit made on 17 March 2015

**by Mr C J Tivey BSc (Hons) BPI MRTPI**

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

**Decision date: 08/04/2015**

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**Appeal Ref: APP/Q1445/A/14/2229081**  
**154A Portland Road, Hove, East Sussex BN3 5QL**

- 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 Ms Jacquee Davey against the decision of Brighton and Hove City Council.
  - The application Ref BH2014/02180, dated 1 July 2014, was refused by notice dated 26 August 2014.
  - The appellants describe the proposed works as a raised deck.
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### Decision

1. The appeal is allowed and planning permission is granted for a raised deck at 154A Portland Road, Hove, East Sussex BN3 5QL, in accordance with the terms of the application, Ref BH2014/02180, dated 1 July 2014, subject to the following conditions:
  1. The development hereby permitted shall begin not later than three years from the date of this decision.
  2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Block Plan, Existing Plan and Elevations, and Proposed Plan and Elevations.

### Main Issue

2. The main issue in this case is the effect of the appeal proposal on the character and appearance of the area.

### Reasons

3. The appeal site is situated within a terrace which fronts Portland Road and to the rear of which is a block of single storey garages. The rear of the appeal property is relatively well visually self-contained by surrounding buildings, although the subject building can be glimpsed from Modena Road from its first floor upwards. There exists a substantial balcony area over a flat roof extension to the rear of 156 Portland Road adjacent and to the west of the appeal site, which is at a higher level than that proposed. Another smaller balcony is also situated to the rear of another property further west within the terrace, but at a similar height as that at no 156.

4. The top of the balustrade that would surround the proposed deck would be approximately level with the first floor, being lower than the balcony serving no 156, adjacent to the flank wall of that property its visual impact would be limited within the rear garden scene. I note the Council's concerns with regard to setting a precedent, but each case must be assessed on its own merits. By virtue of its limited height and the design of the timber balustrade and replacement staircase, the proposal would not have an unduly dominant appearance. Consequently, I consider that the proposal would relate sympathetically to the existing layout and character of the surrounding area.
5. I therefore find that the proposal complies with Policy QD14 of the Brighton and Hove Local Plan 2005 (LP) in that the scheme would be well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area. The Council has not clarified how the proposal would conflict with their Supplementary Planning Document 12: Design Guide for Alterations and Extensions (SPD). However, I note that with respect to balconies and roof terraces, the SPD, where concerning matters of character and appearance, seeks to dissuade balconies and roof terraces where proposed to the front of buildings and in other prominent locations. As the balcony would not be visually prominent I find no material conflict with the SPD either.

#### **Other Matters**

6. I acknowledge the concerns of the occupants of 34 Modena Road with respect to privacy, however, the distance between the proposed deck and their rear garden would be reasonable in an urban situation, with the garage block and parking court intervening. Whilst the proposal could give rise to an increase in overlooking, this would not be material. I note that on this matter the Council considered that the decking, due to its height and positioning, would not increase the level of overlooking with it complying with LP Policy QD27 and I have no reason to disagree with this assertion. I also note the concerns with regard to noise from the use of the balcony, although by virtue of its limited size, I consider this is not a determining factor in this appeal.

#### **Conclusion and Conditions**

7. For the reasons set out above, I conclude that the appeal should succeed. The Council has not suggested any conditions, however, in addition to the standard time limit condition, and for the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans is imposed.

*C J Tivey*

INSPECTOR