



## Appeal Decision

Site visit made on 29 November 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: 6<sup>th</sup> November 2017.

---

**Appeal Ref: APP/Q1445/W/17/3182459**

**Basement Flat, 40 Herbert Road, Brighton BN1 6PB**

- 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 Frances Tegg against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/00796, dated 7 March 2017, was refused by notice dated 6 July 2017.
  - The development proposed is a single storey rear extension with a flat roof. New timber landing/terrace, steps and balustrades down to the existing garden, with low level flower bed.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension with a flat roof: new timber landing/terrace, steps and balustrades down to the existing garden, with low level flower bed at Basement Flat, 40 Herbert Road, Brighton BN1 6PB, in accordance with the application Ref BH2017/00796, dated 7 March 2017, subject to the following conditions:
  - 1) The development hereby permitted shall begin no later than three years from the date of this decision.
  - 2) The development shall be carried out in accordance with the following approved plans: 2722/03, 2722/02 A and 2722/04.
  - 3) The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.

### Main Issue

2. The main issue is the effect of the proposed extension on the living conditions of the occupants of No 38 Herbert Road in relation to outlook, enclosure and overshadowing.

### Reasons

3. No 40 is part of a row of terraced dwellings which have paired rear projections. It is paired with No 38. The ground falls away to the rear of the houses so that the basement flat has a small raised terrace at the back and access to the garden via a short flight of steps. No 38 has a similar, small terrace. The proposal would extend 4m beyond the rear of the projection along the shared boundary with No 38 and a little way beyond the existing raised terrace.

4. There are no windows serving habitable rooms in the rear elevation of No 38's projection. The extension would therefore not result in any material loss of outlook from the house. The shared boundary is currently a close boarded fence covered with some vegetation. This provides privacy for the occupiers on both sides. The proposal would increase the sense of enclosure on the terrace of No 38 to some degree. However, it would also increase the sense of privacy on it and would not adversely affect the outlook over the small rear garden. As the gardens back in a northerly direction any additional overshadowing would be minimal.
5. In these circumstances I conclude that the proposal would not unacceptably harm the living conditions of the occupants of No 38 arising from any material loss of outlook, increased sense of enclosure or overshadowing. The proposal would therefore comply with saved Policies QD14 and QD27 of the Brighton & Hove Local Plan which, amongst other things, seeks to protect the amenity of the city's residents.
6. In addition to the standard time limit the Council has a condition requiring matching materials. This is necessary in the interest of the appearance of the development. A condition specifying the plans is required to give certainty.
7. For the reasons set out above, I conclude that the appeal should be allowed, subject to conditions.

*Sheila Holden*

INSPECTOR