



# Appeal Decision

Site visit made on 18 June 2009

by **J D Westbrook BSc(hons) MSc MRTPI**

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

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**Decision date:  
7 July 2009**

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## Appeal Ref: APP/Q1445/A/09/2098560

Flat 9, 8 Eaton Gardens, Hove, BN3 3TP

- 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 Paul Davies against the decision of Brighton and Hove City Council.
- The application (Ref BH2008/03678), dated 24 November 2008, was refused by notice dated 29 January 2009.
- The development proposed is the construction of a new balcony and double doors to the bay of a first floor flat.

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## Decision

1. I allow the appeal and grant planning permission for the construction of a new balcony and double doors to the bay of a first floor flat at Flat 9, 8 Eaton Gardens, Hove, BN3 3TP, in accordance with the terms of the application Ref BH2008/03678, dated 24 November 2008, and the plans submitted therewith, subject to the following conditions:
  - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.

## Main issue

2. I consider the main issue in this case to be the effect of the proposed balcony on the living conditions of the occupiers of Flat 8, 8 Eaton Gardens, by way of noise, privacy and light.

## Reasons

3. The appeal property is a first floor flat in a small detached block of two flats, to the north and rear of the main building within No 8 Eaton Gardens. This block is a relatively new addition to the older main building. Flat 9 has a bay window to the living room that looks south over a communal grassed area. There is a footpath across this communal area, which gives access to the rear car park serving the flats at No 8 Eaton Gardens. The ground floor flat in this small detached block (Flat 8) has a similar southerly outlook over the communal grassed area, but also has a private, fenced-off garden to the east, with access from patio doors in the east elevation. Flat 9 has a living room window and two bedroom windows directly overlooking the private garden area of Flat 8.
4. The proposed development would involve the replacement of the central portion of the bay window with double doors of a similar design to the existing windows. These doors would give access to a balcony that would wrap around the bay, supported on cantilevered brackets. It would have a hardwood decking base, black painted steel balusters and frame, and a hardwood handrail.

5. The owner of Flat 8 contends that the proposed balcony would result in additional noise and a loss of privacy within the private garden area. In my opinion, the existence of balconies in flatted developments is not uncommon and, since in this case the proposed balcony would project over a communal garden area having regular usage, it would be unlikely to generate any significant additional internal noise for the occupiers of Flat 8. With regard to loss of privacy, I note that the proposed balcony would offer the potential for some limited additional visibility over the private garden of Flat 8. However, views would be only at an oblique angle and would not, in my opinion, result in any significant additional loss of privacy when considered against the direct visibility already existing from the east-facing windows in Flat 9.
6. The owner of Flat 8 also contends that the proposed balcony would result in loss of light. The appellant has submitted a shadow study that appears to indicate that any overshadowing from the balcony onto the bay window of Flat 8 would be very limited. Since the shadow study does not indicate a time of year or time of day, I do not consider that it adequately displays the potential effects of the proposed balcony in a variety of situations. Nevertheless, given the limited scale and orientation of the proposed balcony, together with its height above the bay window of Flat 8, I am satisfied that no serious loss of light would result from the proposal.
7. For the above reasons, I do not consider that the proposal would result in any significant harm to the living conditions of the occupiers of Flat 8, by way of noise, privacy and light, and that it would not, therefore, conflict with saved policies QD14 and QD27 of the Brighton and Hove Local Plan.

### **Other Matters**

8. I have had regard to the fact that the appeal site lies within The Willett Estate Conservation Area and the requirements under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. In this specific case, the Council has accepted that the proposed balcony and double doors would not harm the character or appearance of the Conservation Area. I concur with this view, and to that extent I find that it would preserve its character and appearance.
9. The owner of Flat 8 has expressed concern about the construction of the balcony and the possible structural impact on Flat 8. I appreciate these concerns, but in the circumstances of this case, these are not planning matters before me, and are more appropriately dealt with under separate legislation.

*J D Westbrook*

INSPECTOR