



# Appeal Decision

Site visit made on 23 October 2009

by **Y Mwanza BA(Hons) MRTPI**

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

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**Decision date:  
14 December 2009**

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## Appeal Ref: APP/Q1445/A/09/2107321

### 41 The Cliff, Brighton, East Sussex BN2 5RF

- 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 Rebecca March-Taylor against the decision of Brighton and Hove City Council.
- The application Ref BH2008/03611, dated 17 November 2008, was refused by notice dated 15 January 2009.
- The development proposed is extension to create 2 additional storeys with flat roof over including rooflights, solar panels and roof terrace.

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### Procedural Matter

1. The appellant indicated on the appeal application form that the description has changed to that used by the council, I have therefore used this description for the purposes of the appeal.

### Decision

2. I allow the appeal, and grant planning permission for an extension to create 2 additional storeys with flat roof over including rooflights, solar panels and roof terrace at 41 The Cliff, Brighton, East Sussex BN2 5RF in accordance with the terms of the application, Ref BH2008/03611, dated 17 November 2008, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other alteration of the dwellinghouse other than that expressly authorised by this permission shall be carried out.
  - 3) No development shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved samples.
  - 4) The development hereby permitted shall not be commenced until details of sustainability measures including details of a green or biodiverse roof have been submitted to and approved in writing by the Local Planning Authority. These details shall demonstrate how the development will be

- efficient in the use of energy, water and materials. The development shall be carried out in strict accordance with the approved details.
- 5) The side facing (west) windows at first floor level and side facing (west and east) windows at second floor level shall not be glazed otherwise than with obscured glass and fixed shut and thereafter permanently retained as such.
  - 6) Notwithstanding the details shown on the approved plans, screening to the sides (east and west) of the first and second floor terraces balconies shall be provided. No development shall commence until full details of the proposed screening have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in strict accordance with the approved details and maintained as such thereafter.
  - 7) The development shall be implemented in strict accordance with the Waste Minimisation Statement submitted as part of this application.

### **Main issue**

3. I consider the main issue in this appeal to be the effect of the development on the character and appearance of the surrounding area.

### **Reasons**

4. Policies QD1, QD2 and QD3 of the Brighton and Hove Local Plan (LP) relate to the design of the proposed development. Policy QD1 requires proposals to demonstrate a high standard of design and to make a positive contribution to the visual quality of the environment. Policy QD2 indicates the development should emphasise and enhance the positive qualities of the neighbourhood and QD3 seeks efficient and effective use of sites.
5. The appeal proposal seeks to amend a similar development approved by the Council under Ref: BH2009/00679 dated 20 May 2009. The main difference between the approved scheme and the appeal proposal is the footprint of the second floor. The approved scheme included a setback on the rear elevation at second floor level while the appeal proposal would be flush with the lower rear first floor level fronting Roedean Road. The Council argue that this additional bulk and massing would be harmful to the character and appearance of the area.
6. The appeal property has two frontages, one on The Cliff and one on Roedean Road. I saw a wide variety of architectural styles differing in both scale and massing. The development would be three storeys high and would be generally lower than both the neighbouring properties that flank the appeal site.
7. The appellant has produced a photographic survey and contends Roedean Road is varied in terms of its streetscene, regularity of building line, ridge height and that the upper floors of the appeal proposal would be set behind No.39 Roedean Road thereby reducing its impact. In my opinion the additional roof mass created by the increased second floor footprint would be broken up by the development being set back from the neighbouring property No.39 Roedean Road. Furthermore, the proposal would be set in by over 10m from

Rodean Road and therefore, in my view, it would not appear bulky or dominating when approached from the east.

8. I note the concerns raised by the Roedean Residents' Association but I am satisfied that the overall height and massing would not dominate the neighbouring properties and would appear in keeping with the general scale and pattern of development in the area. I thus find that the proposal would not be harmful to the character and appearance of the streetscene and the surrounding area. In my opinion the modern design including the flat roof as proposed, would not be unacceptable in principle.
9. I conclude that the proposed development responds positively to its environment and would not have a harmful effect on the character and appearance of the surrounding area. It would not conflict with the aims and objectives of Policies QD1, QD2 and QD3 of the Brighton and Hove Local Plan.

### **Conditions**

10. I have reviewed the Council's suggested conditions and consider it necessary, given the limited plot depth, to restrict permitted development rights relating to extensions and enlargements in order to safeguard the character of the area and living conditions of neighbouring occupiers.
  11. The Council has requested the submission and approval of sustainability measures including details of a proposed green roof. I consider this necessary to ensure the efficient use of energy, water and materials. In order to ensure that the development complies with Policy SU13 of the LP, I consider it necessary for the development to be carried out in accordance with the waste minimisation statement submitted with the appeal proposal. In the interests of safeguarding the living conditions of neighbouring occupiers I consider it necessary to impose conditions relating to obscure glazing on flank windows at first and second floor levels and provision of screening on the first floor terrace.
  12. While the site may have historic interest, a condition requiring an archaeological investigation in my view is excessive and not necessary in this instance given that the development seeks to add additional storeys to the existing building as opposed to a complete demolition and redevelopment. In my view the proposed work involving limited excavation would not warrant the condition. A suitably worded condition requiring the submission and approval of materials would ensure that character and appearance of the area is safeguarded.
  13. The proposal does not involve the replacement of the existing boundary structures and I therefore consider it unnecessary to have a condition relating to these and in the context of the development proposed it would be unreasonable to add a condition relating to their retention. I consider that the existing fences are sufficient for privacy and in the unlikely event of them being removed the neighbour can erect a fence of 2m.
  14. Drawing Nos. RN01 07A & RN01 06A show a roof terrace and screen fronting Roedean Road. In my view it would be unreasonable to prohibit these features as they would appear in keeping with the property and would not harm the living conditions of the neighbouring occupiers.
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15. Given the minimal change in site coverage and that the majority of changes will take place at the upper levels, I do not consider it necessary to impose a condition relating to the use of porous materials.

**Conclusion**

16. I conclude having regard to all other matters raised that the appeal should be allowed.

*Y Mwanza*

INSPECTOR