



# Appeal Decision

Site visit made on 13 November 2009

by **Keith Manning BSc (Hons) BTP MRTPI**

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**17 November 2009**

---

## Appeal Ref: APP/Q1445/D/09/2112412 30 Bishops Road, Hove, East Sussex BN3 6PN

- 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 James Groves against the decision of Brighton & Hove City Council.
- The application Ref BH2009/00901, dated 16 April 2009, was refused by notice dated 22 June 2009.
- The development proposed is construction of rear terrace incorporating storage for rainwater harvesting and garden equipment.

---

### Decision

1. I dismiss the appeal.

### Main issue

2. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers at No 28 Bishops Road with regard to privacy and outlook.

### Reasons

3. The proposed development is for the most part a carefully designed enhancement of the utility and appearance of the rear elevation and garden of No 30 Bishops Road. The existing ability to overlook the neighbouring property at No 28 from the sun room at No 30 would be reduced by the brick wall along the boundary that would be an integral part of the proposed development. Moreover, at around 1.8 metres in height above the level of the proposed terrace, this part of the proposed wall would prevent overlooking from the intervening elevated terrace that would be created.
4. That said, the outer part of the proposed terrace would afford its users a significant opportunity to look directly down into the garden of No 28 and back into the windows of certain of its habitable rooms, because the boundary wall in this location, including a narrow area that appears intended to accommodate some ornamental planting, would be only around one metre in height above the indicated level of the proposed terrace. Although stepping the wall down in this fashion would acknowledge the topography and help prevent it from being unduly overbearing within the garden of No 28, it would also render it largely ineffective as far as the necessary screening of the outer part of the proposed terrace is concerned.

5. The consequential harm to the privacy of occupiers of No 28 is a significant flaw in an otherwise acceptable scheme that would give rise to harmful conflict with the intentions of saved policies QD14 and QD27 of the Brighton & Hove Local Plan, both of which aim to protect amenity. As far as the general standard of design is concerned, the overall approach displays quality and imagination and I do not therefore consider it would give rise to unacceptable conflict with saved policy QD1 as the Council maintains in its refusal. In visual terms, I consider the proposed development would not be harmful to the outlook of occupiers of No 28.
6. While I acknowledge that the current occupier of that property has confirmed a lack of objection to the proposed development, I am conscious that future occupiers may be less accommodating of potentially intrusive overlooking and would have little choice other than to instigate significant and possibly unsightly screening measures.
7. While I accept that the context in this case includes an elevated recessed balcony area at the appeal site which affords the potential to overlook the rear garden of No 28, this is an established situation that is in any event more akin to the usual outlook from bedroom windows than the more intimate proximity of an elevated terrace alongside a garden boundary that the proposed development would involve. I also accept that the terrace at No 32 Bishops Road demonstrates that privacy can be achieved relative to an adjoining occupier; but that is by virtue of an established screen and no such comprehensive screening is proposed in this instance.
8. I have given consideration to whether the harm that I have identified could be overcome by the imposition of a planning condition but, in the context of what is proposed, the necessary modification to the scheme could be substantial enough to warrant further comment from interested parties and hence contrary to the advice of Circular 11/95.
9. For the reasons given above, and having taken all other matters raised into account, I conclude that the appeal should be dismissed.

*Keith Manning*

Inspector