



# Appeal Decision

Site visit made on 4 May 2010

by **J Mansell Jagger MA(Cantab) DipTP**  
**MRTPI IHBC**

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

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**Decision date:  
10 May 2010**

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## Appeal Ref: APP/Q1445/D/10/2124457

### 1 The Down, Hove BN3 8FD

- 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 Mrs S Dimitri against the decision of Brighton & Hove City Council.
- The application Ref BH2009/02985, dated 6 December 2009, was refused by notice dated 23 February 2010.
- The development proposed is construction of decking to rear.

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### Decision

1. I allow the appeal, and grant planning permission for construction of decking to rear at 1 The Down, Hove BN3 8FD in accordance with the terms of the application, Ref BH2009/02985, dated 6 December 2009, and the plans submitted with it, subject to the condition set out in the attached schedule.

### Main issue

2. The main issue is the effect of the proposal on the residential amenities of adjoining properties, with particular regard to outlook and privacy.

### Reasons

3. The appeal property is a semi-detached bungalow with a flat-roofed extension at the rear. The ground slopes away from the building and a raised timber deck has been constructed across the width of the extension and projecting about 3m with steps down to the garden. On the west side, the deck is set against a 1.8m close-boarded fence that forms the boundary between 1 and 2 The Down. On the east side, there is a space of about 3m to the side fence that forms the boundary with the garden of 106 Hangleton Valley Drive. The end of the garden of 1 The Down adjoins the garden of 2 Meyners Close.
4. Because of the raised height, it is possible for a person standing on the deck to see into the garden of 2 The Down and to have a clear view of the garden and conservatory at 106 Hangleton Valley Drive, causing an unacceptable loss of privacy. The distance to the end of the garden and angle of view limits any overlooking of 2 Meyners Close to an acceptable level.
5. Given the raised position of the French windows from the extension, I can see the desirability of the raised deck, which is of robust construction and not unattractive. However, there is a real problem with overlooking, particularly for 106 Hangleton Valley Drive. The applicant has inserted 2m high bamboo

screens on either side in an attempt to overcome the problem, but they are relatively transparent and spoil the appearance of the bungalow and the deck.

6. In order to avoid the direct overlooking, permanent and better-designed screening is needed, to a minimum height of 1.8m on either side. Given a suitable design, I do not think that the screens would be over-intrusive or overbearing on the outlook from either adjoining property.
7. I will impose a suitable condition requiring the submission of a scheme for screening both sides of the deck and for constructing the approved scheme. Without that condition, the retention of the deck could not be approved. I have considered the Council's suggested condition but will use one more readily capable of enforcement.
8. Subject to satisfactory screening, I conclude that that the decking would not create unacceptable harm to the residential amenities of the adjoining properties and would not conflict with the Council's adopted Local Plan policies. I therefore allow the appeal.

*J Mansell Jagger*

INSPECTOR

### **Schedule of Conditions**

1. The decking hereby permitted shall be removed within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - (i) Within 3 months of the date of this decision a scheme for screening to the side elevations of the decking shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
  - (ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as valid by, the Secretary of State.
  - (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - (iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.