



Appeal Decision

Site visit made on 4 March 2010

**by Megan Thomas BA Hons in Law,
Barrister**

**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

**Decision date:
26 March 2010**

Ref: APP/Q1445/09/A/2113422

Ground Floor Flat, 2 Landseer Road, Hove, East Sussex BN3 7AF

- 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 Antony Collins against the decision of Brighton & Hove City Council.
- The application Ref BH2009/00817, dated 4 April 2009, was refused by notice dated 3 June 2009.
- The development proposed is a brick extension with sloping roof and skylights to the back of the building, developing on the rear garden, to be used as a living room.

Decision

1. I dismiss the appeal.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupants of 4 Landseer Road with regard to outlook and light.

Reasons

3. 2 Landseer Road is a ground floor flat forming part of a two storey end-of-terrace property in a residential part of Hove. The terraced property next door to the west is 4 Landseer Road. Both properties have small south facing rear gardens and are divided by a wall which has some vegetation growing along the top part of it.
4. The terraced properties along Landseer Road appear to have been built originally with two storey projections at the rear. No.2 has a small conservatory attached to the projecting block and this conservatory would be demolished prior to construction of the extension.
5. The proposed extension would consist of a single storey structure with a mono-pitched roof and two rooflights. It would have rear facing French doors leading into the garden with a window either side of those doors. There would be no windows in either of the side elevations of the proposal. The new internal space would be used as a living room. There would be some minor changes to the fenestration of the east elevation of the main property at ground floor level.
6. The occupants of 4 Landseer Road have a large kitchen window facing their garden. The western elevation of the proposed structure would be situated very close to the common boundary and would project about 3.4 metres from

the rear elevation of 2 Landseer Road (after demolition of the conservatory). Whilst some of the new structure would be hidden behind the existing boundary wall, there would be a significant loss of outlook from that kitchen window. Furthermore, when the occupants of 4 are using their garden the portion of the new extension visible above the wall would create an undue sense of enclosure curtailing the enjoyment by the occupants of what is only a very modest-sized garden.

7. Furthermore, given the size and location of the structure proposed there would be a noticeable loss of daylight to the kitchen window and some loss of morning sunlight to the kitchen and garden given that the structure would be to the east of the garden to 4 Landseer Road. I have insufficient information to prove to me that the 45-degree line test referred to in paragraph 3.57 of the Brighton & Hove Local Plan 2005 would not be breached, on either a horizontal or vertical axis. Even if I was convinced that there would be compliance with that guidance, I have borne in mind that it is the effect on the neighbouring property which is critical and with that in mind I do not consider that the impact of the proposal would be acceptable in terms of loss of outlook or light.
8. Whilst I note that the current occupants of 4 Landseer Road have not lodged an objection to the scheme I must also have regard to the living conditions of future occupiers of the property. I acknowledge that the current scheme is a second planning application by the appellant seeking permission for a smaller structure than the first application, however I am obliged to determine this particular scheme on its own particular merits.
9. Accordingly, I conclude that the proposal would unduly harm the living conditions of the occupants of 4 Landseer Road with regard to loss of light and outlook. The proposal would be contrary to policies QD14 and QD27 of the Brighton and Hove Plan 2005. Having taken into account all representations made, including the benefit arising from improving the housing stock, I conclude that the appeal should be dismissed.

Megan Thomas

INSPECTOR