



# Appeal Decision

Site visit made on 4 November 2008

by **John Papworth** DipArch(Glos) RIBA

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

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**Decision date:**  
**10 November 2008**

## Appeal Ref: **APP/Q1445/A/08/2076331**

### **West View, The Drive, Hove BN3 6SB**

- 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 Anstone Properties Ltd against the decision of Brighton & Hove City Council.
- The application Ref BH2008/00149, dated 10 January 2008, was refused by notice dated 28 February 2008.
- The development proposed is roof extension to create two flats (comprising of one four bed unit and one two bed unit) with a roof garden to each flat: two reserved parking spaces and a new enclosed cycle store.

### **Decision**

1. I allow the appeal, and grant planning permission for roof extension to create two flats (comprising of one four bed unit and one two bed unit) with a roof garden to each flat: two reserved parking spaces and a new enclosed cycle store at West View, The Drive, Hove BN3 6SB in accordance with the terms of the application, Ref BH2008/00149, dated 10 January 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) No development shall take place until a scheme for the junction of existing and new work, and samples of all materials to be used in the external finishes of the extension, have been submitted to and approved by the local planning authority. Materials that are to match existing should do so in colour, style and texture. The approved scheme and materials shall be incorporated into the development.
  - 3) The secure cycle store shown on drawing A607/7 is to be completed and made available for the use of residents prior to the occupation of the first of the new units hereby permitted, and shall be retained for such use thereafter.
  - 4) The two new parking spaces shown on drawing A607/1 are to be completed and made available for the use of residents prior to the occupation of the first of the new units hereby permitted, and shall be retained for such use thereafter.
  - 5) Notwithstanding the details shown on the application drawings, no development shall take place until further details of the lift extension, motor room and lift overrun have been submitted to and approved by the local planning authority and the approved scheme shall be carried out.

- 6) The flat roof to the north-west corner, shown on drawing A607/2A as 'green roof to flat below' is to be accessible only for maintenance and repair and shall not be used as a balcony, roof garden or similar amenity area to which occupiers of any flat have access.
- 7) Notwithstanding the details shown on the application drawings, no development shall take place until further details of the balustrade and screening to the roof gardens have been submitted to and approved by the local planning authority and the approved scheme shall be carried out.

## **Main Issues**

2. The main issues are:

- The effect of the development on the character and appearance of The Drive area of Hove.
- The effect of the development on the living conditions of residential occupiers with particular regard to outlook.

## **Reasons**

### *Character and Appearance*

3. A useful starting point in my consideration is an appeal decision dated 24 April 2006 (Ref; APP/Q1445/05/1194323) for what appears a similar proposal, but which has been explained and the differences illustrated by the appellant in submissions to this appeal. The Inspector writing then concluded that the proposal would be in conflict with Local Plan policies with respect to the character and appearance of Wilbury Avenue. I note that Flat 20 was designed to occupy a greater part of the footprint of the lower block than is the case now and in particular was designed to sit on the outer walls at the north-west and north-east corners, all along the north and east sides and for the first bay along the west side.
  4. The scheme that is before me is similar to the earlier scheme along the elevation facing The Drive and also along that to the south, facing the railway lines. The previous Inspector did not object to these parts and neither do I. There are however significant improvements in my judgement to the treatment of the Wilbury Avenue elevation, where instead of being flush with the lower construction, a smaller, 2 bed flat is set back from the west and north sides. The area of roof not now to be built on would be an accessible balcony to the north-east corner and a planted flat roof to the north-west, accessible only for maintenance and repair. Both parts would be guarded by a handrail. It appears that the only remaining area of full height masonry in this area would be that shown on the photomontage of the proposed west elevation, and only occupies a short length of wall alongside the balconies to lower flats and the linen cupboard and wc of the proposed 4 bed flat. I do not find this aspect of the layout detrimental to either the building or the surrounding area.
  5. Overall I consider the design changes to result in a well-articulated and pleasing termination to the block, removing the appearance of the protrusion of the lift motor room and overrun and providing some welcome modelling to the bland wall top of the present design. I do not consider that any objection to
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the principle of a roof extension was identified in the previous appeal and that the unusual nature of the entrance at a higher floor level and the low siting of the block does not give compelling reason to reject this provision of further residential accommodation in a sustainable location on previously developed land. These attributes are in line with aims in Planning Policy Statement 3 "*Housing*" and the scheme before me satisfies the requirement in that document that new housing be of a high quality, well designed and to be in suitable locations, and which is well integrated with, and complements the neighbouring buildings and the local area.

6. I conclude that the proposals would not cause harm to the character and appearance of the area and would accord with the aims of Local Plan Policy QD1 and the design aspects to be taken into account in all development, the key principles in Policy QD2 including the impact on the skyline, and requirements in Policy QD14 that extensions should be well designed, sited and detailed in relation to the original property and the surrounding area.

#### *Living Conditions*

7. The reference in the Council's reason for refusal is to the west and the newer properties at Champions Row, Wilbury Road. The Inspector writing in 2006 criticised the effect of the then Flat 20 on the living conditions of occupiers of 16 Champions Row through some overshadowing. As set out above, there are significant differences in the design of the extension at the west and north elevations between 2006 and now. There would be a set-back of the flat, a reduction in footprint and the addition of a flat roof that is not normally accessible. Having in mind the differences in level and the setting back, I do not consider the design now proposed to present an overbearing aspect or cause harmful overshadowing to the west, with little of the new building being readily visible from ground level or the lowered level of the garden of No.16.
8. Similarly, overlooking was referred to previously, and notwithstanding that it is not now a reason for refusal, I do not consider the layout proposed for the 4 bed flat to be any more harmful compared to that which was before the Inspector in 2006, and to which no objection was mentioned, and the layout of the 2 bed flat would be definitely better and not give rise to harmful overlooking to the west.
9. There has been an objection from a resident to the north, although this is not supported by the Council. I acknowledge that there would be an accessible balcony facing this way, but there are at present living rooms and kitchens at lower levels and I am not persuaded that the risk would be that much greater over the distances involved across Wilbury Avenue. There are at present intervening trees and a condition could control the nature of the balustrade. In conclusion on this main issue I find the proposal to be acceptable in its effect on the living conditions of neighbouring residential occupiers with regard to overlooking, visual impact as well as sunlight and daylight, and hence to accord with Local Plan policies that seek the protection of amenity such as QD14(b) and QD27.

#### **Other Considerations**

10. I have seen representation from residents of the premises regarding possible disruption during the works. There is other legislation governing health and
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safety during building operations and I can attach limited weight to this matter in considering this planning appeal. I have had in mind the comments of the previous Inspector, and am of the view that the proposal before me would be no more disruptive. Regarding comments that nothing has changed between the previous scheme and that before me, I have identified matters that were criticised by the previous Inspector and which have, in my view, been addressed satisfactorily.

### **Conditions**

11. The Council has not provided any suggested conditions, but it appears to me that samples and details of materials should be provided, and that there is some doubt as to how the lift overrun will be accommodated without a protrusion. The cycle store and the two additional parking spaces are benefits, as the Council does not share the concerns of residents regarding highway and refuse access matters, but it is essential that these are provided and at the right time. In addition I have based my decision on the north-west part of the flat roof being accessible only for maintenance and repair, and this needs to be secured by condition as well as the nature of the balustrade. I have read the appellant's representation on conditions and the lack of need for a sustainable transport contribution, it appears that this was not required at the time of the previous appeal and I have been directed to no change in policy that would indicate that a smaller scheme would require this provision.

### **Conclusions**

12. The development would provide additional housing within the urban area and the design now presented does not cause harm to the character and appearance of the area and does not have an undue effect on the living conditions of neighbours. Conditions could control matters that would ensure that a satisfactory quality of development occurs and therefore for the reasons given above I conclude that the appeal should be allowed.

*S J Papworth*

INSPECTOR