



# Appeal Decisions

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by **Richard A. Hersey BA Dip TP 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:**  
**9 March 2009**

**Appeal Ref: APP/Q1445/E/08/2089422 – Appeal A**

**Appeal Ref: APP/Q1445/A/08/2089321 – Appeal B**

**149-151 Kingsway, Hove BN3 4GR**

- Appeal A is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- Appeal B is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeals are made by Stranmede Ltd. against the decisions of Brighton and Hove City Council.
- Appeal A. The application, ref. BH2008/02108, dated 19 June 2008, was refused by notice dated 10 October 2008.
- Appeal B. The application, ref. BH2008/02107, dated 19 June 2008, was refused by notice dated 15 September 2008.
- The development proposed in both cases is *Demolition of existing semi-detached houses and erection of eight apartments with basement parking and front and rear landscaped gardens.*

## Decisions

1. Appeal A – I dismiss the appeal.

Appeal B – I dismiss the appeal.

## Main issues

2. The main issue in appeal A is the effect that demolition of the existing buildings would have on the character and appearance of the Pembroke and Princes Conservation Area.
3. The main issue in appeal B is the effect that the proposed new building would have on the living conditions of neighbouring residents, having regard in particular to their light, outlook and privacy.

## Reasons

4. The appeal properties comprise a pair of semi-detached houses, forming one of two similar pairs fronting on to the Western Lawns and the Western Esplanade on the Hove seafront. They are within the Pembroke and Princes Conservation Area that is characterised by a wide variety of sizes and ages of buildings predominantly in residential use.

*Appeal A*

5. The Council raises no objection in principle to the demolition of the existing buildings. I agree that they and the neighbouring pair, although quite pleasant in themselves, are of no particular architectural merit but, despite the recent damage to the buildings following occupation by squatters, they do make a positive contribution to the character of the area. If a redevelopment were to be approved that would preserve or enhance the area, it would be appropriate, subject to conditions, to grant consent for demolition. However, in the light of my conclusions in respect of appeal B, set out below, and in the absence of an approved redevelopment scheme, the demolition of the existing buildings would be premature. It would leave an unsatisfactory visual gap in a prominent location. As such it would harm the character and appearance of the conservation area, contrary to policy HE8 of the Brighton and Hove Local Plan.

*Appeal B*

6. The proposed new building would be on lower ground, upper ground, first to third floors, with a set back fourth floor. Although the building would be substantially larger than the existing pair of houses and the remaining neighbouring pair at 145-147 Kingsway, it would be comparable in height with the adjoining five storey hotel to the west and a little lower than the main block of Viceroy Court, the block of flats to the east at the corner of Hove Street. The Council accepts that, in principle, a contemporary design as proposed would be in accordance with the adopted Local Plan policies and with the emerging Core Strategy Preferred Options for this part of the Western Seafront. However, despite a number of revisions made to a previously refused scheme, there is significant concern about the effect of the scale and siting of the proposed building on two of the neighbouring buildings, namely the semi-detached house to the east, no.147 Kingsway, and the three storey block of flats, an annex to Viceroy Court, at the rear.
7. With regard to 147 Kingsway, I saw that, although the front of the new building would align with the existing building, it would be significantly nearer to the common boundary, particularly at the front, where it would be only about 0.5m from the boundary. Rising to third floor level at this corner, it would dominate the first floor front balcony at no.147 and seriously reduce light and outlook to the side dormer window in the second floor bedroom, as well as to minor windows. The presence of living room windows in the side of the proposed building and balconies at the front would also provide the potential for overlooking at a very close distance, although, if I were minded to grant permission, a condition could be imposed requiring revised details in this respect.
8. The new building would project 3m beyond the rear of no.147 at a distance of only 1m from the boundary. Although this would not have any significant effect on daylight to the rear of no.147, it would, by reason of its height and proximity to the boundary, be likely to have a significant effect on the outlook from and sense of enclosure to the rear windows and rear garden, to the detriment of adjoining residents.

9. The effect on the three storey flats at the rear would be to reduce significantly the daylight and sunlight to the south facing living rooms. I can readily appreciate the concern expressed by neighbours about this. However, the appellant's evidence, using the Building Research Establishment publication "Site layout planning for daylight and sunlight," is that the vertical sky component at each of these windows would still be 27% or more, thereby providing the potential for good daylight and sunlight to the relevant rooms.
10. I acknowledge that the flats would continue to receive at least a minimum recommended level of daylight and sunlight and on this point alone refusal of permission would not be justified. However, the outlook from the flats is equally significant and, from my on-site judgement, I consider that the effect of the development, particularly when viewed in conjunction with the rear of the neighbouring hotel, would be to result in a significant and unreasonable sense of enclosure to the occupiers of the flats at the rear. The effect would be exacerbated by the additional overlooking, or perception of being overlooked, by a substantial number of windows at a distance of only about 18m.
11. I am aware that there would be some additional overshadowing of the gardens of neighbouring properties as a result of the development but I do not consider that this would be significant enough to justify refusal. Overall I conclude that the development, by reason of its size and siting, would significantly harm the living conditions of neighbouring residents, contrary to policy QD27 of the Local Plan.

*R.A. Hersey*

INSPECTOR

