



# Appeal Decision

Site visit made on 24 February 2009

by **Philip Willmer BSc Dip Arch RIBA**

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

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**Decision date:**  
**17 March 2009**

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**Appeal Ref: APP/Q1445/A/08/2092427**  
**45 Lewes Road, Brighton, East Sussex, BN2 3HQ.**

- 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 Titus Fung Wong Cheung against the decision of Brighton and Hove City Council.
- The application Ref BH2008/02517, dated 18 August 2008, was refused by notice dated 20 November 2008.
- The development proposed is described as "1. First floor double glazed window with PVC frame 2 feet wide x 4 feet high (60x 120) front of property. 2. Rear access staircase from ground floor to 1<sup>st</sup> floor using existing window as entrance".

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## Decision

1. I dismiss the appeal in so far as it relates to the insertion of the new window in the Lewes Road façade of the building at first floor level.
2. I allow the appeal in so far as it relates to the external metal staircase and replacement of the first floor window in the rear elevation with a door. I therefore grant planning permission for the external metal staircase and replacement of the first floor window in the rear elevation with a door at 45 Lewes Road, Brighton, East Sussex, BN2 3HQ in accordance with the terms of the application Ref. BH2008/02517, dated 18 August 2008, and the plans submitted therewith.

## Procedural Matters

3. The works proposed have been carried out. Accordingly, I was able to see the design of both the window to the street façade and the rear door at first floor level, shown proposed on the application drawings but not detailed, as well as the staircase. I have therefore proceeded to determine the appeal on the basis of the completed works.

## Main Issues

4. I consider that there are two main issues in this case. The first is the effect of the proposal on the character and appearance of the property, the terrace of which it is part and the surrounding area. The second issue is its effect on the living conditions of the occupiers of the adjoining properties, in respect to the potential for overlooking and a loss of privacy from the proposed staircase.

## Reasons

### *Character and appearance*

5. The property the subject of this appeal is one of five two storey buildings, over basement, in a short terrace located on the west side of the busy Lewes Road. The ground floors, as this one, which is a fish and chip shop, are in commercial use with residential accommodation over. The terrace runs between St Martin's Street and St Paul's Street. Due to the short back to back gardens of the houses in those streets, they are overlooked from the rear of the properties in the terrace. In addition, I saw that there is a common pathway, running along the side boundaries of 2 St Martin's Street and 1 St Paul's Street, linking the rear amenity areas of numbers 42, 43, 44 and 45 to St Martin's Street. This is raised and allows public views into the rear yards from it.
6. The terrace, despite a variety of shop fronts, has a uniform appearance with a single bay window at first floor level, typical of similar terraces in Brighton.
7. The appellant has carried out a number of alterations to make the first floor accommodation self-contained. These include the erection of an external metal staircase and the replacement of a first floor rear facing window with an uPVC door.
8. Further, he has inserted a new uPVC window at first floor level into the street elevation to allow for the subdivision of the original large front room to provide a small additional bedroom. The terrace has a simple, attractive uniform appearance. In my opinion, therefore, the insertion of a window here has detracted from the rhythm of the existing fenestration pattern and the relationship of void to solid, to the detriment of the architectural integrity of the original architectural composition. The window appears as an incongruous addition damaging to the appearance of the host building, the terrace and thereby the wider street scene.
9. Number 45 would be the only property in the terrace to have an external metal staircase. However, as installed it is typical of such external access stairs of which there are numerous examples in the area. Further, the staircase would not be visible from the street. I therefore agree with the Council that it would not have a harmful impact on the character and appearance of either the host property or the surrounding area. Similarly, in my view, the door as installed would have little if any detrimental visual impact.
10. I conclude in respect of the first main issue that the new window to the front elevation would harm the character and appearance of the property, the terrace of which it is part and the surrounding area contrary to Brighton and Hove Local Plan (LP) Policies QD1, QD2 and QD14 as they relate to the quality of development. However, the new staircase and door to the rear elevation would not and are therefore acceptable. I appreciate that the new window provides light and ventilation to the new bedroom. However, and while sympathetic to the appellant's wish to form an additional room, this is not, to my mind, a compelling reason to allow the window having regard to the harm that I have found.

### *Living conditions*

11. The metal staircase incorporates a low level half landing along with a further larger landing immediately outside the rear door at first floor level. In my opinion
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these are not so large as to act in any real sense as balconies as suggested by the Council. I do not consider that people are likely to congregate on the staircase or use it other than for access.

12. The staircase may well allow for some additional overlooking of neighbouring properties by people using it. However, due to the configuration of the properties and this high density urban location some mutual overlooking is to be expected. Accordingly, I conclude in respect of the second main issue that neither the new door nor the external staircase has lead to significant overlooking or loss of privacy.
13. In this respect the development would accord with the objectives of LP Policy QD27 as it relates to the impact of development on the living conditions of neighbouring residential occupiers.
14. The Council has not suggested any conditions in the event that I am minded to allow this appeal. As the works have been completed I do not consider, therefore, that the imposition of conditions is necessary in this case.
15. The part of the proposal that relates to the front window, I consider is clearly severable being physically and functionally independent from the new first floor rear door and external staircase and that a split decision is, therefore, appropriate. For the reasons given above, and having regard to all other matters raised, I consider that the appeal should be dismissed in so far as it relates to the new window in the Lewes Road façade, but should be allowed in so far as it relates to the new rear door and external metal staircase to the rear.

*Philip Willmer*  
INSPECTOR

