

## Appeal Decision

Site visit made on 3 May 2017

by **Nick Fagan BSc (Hons) DipTP MRTPI**

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

Decision date: 11<sup>th</sup> May 2017

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**Appeal Ref: APP/Q1445/D/17/3173074**

**114 High Street, Rottingdean, Brighton BN2 7HF**

- 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 Michael Parkhouse against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/06106, dated 5 November 2016, was refused by notice dated 15 March 2017.
  - The development proposed is the creation of a first floor balcony on timber supports (retrospective).
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### Decision

1. The appeal is allowed and planning permission is granted for the creation of a first floor balcony on timber supports at 114 High Street, Rottingdean, Brighton BN2 7HF in accordance with the terms of the application, Ref BH2016/06106, dated 5 November 2016 and the plans submitted with it.

### Procedural Matter

2. The above description of the development is the Local Planning Authority's (LPA) description, which is essentially an abbreviated version of the description set out on the application form. It accurately summarises the development, a first floor balcony to the rear of the house, accessed off a bedroom.

### Main Issues

3. The main issues are the effect of the balcony on the character and appearance of the area, including whether it preserves or enhances the character and appearance of the Rottingdean Conservation Area, and its effect on the living conditions of neighbours with particular reference to privacy and noise.

### Reasons

#### *Character and Appearance*

4. The appeal property is a two storey Edwardian end of terrace house on the corner of Vicarage Lane, which was previously in use as two flats prior to the LPA granting a Certificate of Lawfulness for its reversion to a house<sup>1</sup>. There is agreement between the LPA and appellant that a wooden staircase with a landing smaller than the proposed balcony located in approximately the same place existed from 1978 until it was replaced by the new balcony in June 2016.

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<sup>1</sup> BH2013/03651 Approved 16 December 2013

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5. The LPA point out that two of the submitted drawings, Fig 4 and Fig 5, do not exhibit the same dimensions for the new balcony. For the avoidance of doubt it is Fig 5 that accurately shows the new balcony.
6. The LPA's concern is that the balcony is substantially larger and more prominent than the previous landing area and is built of inappropriate material. The difference in size between the two flat balcony areas is set out in Fig 5 and further in the plan supplied by the appellant at appeal showing the old structure in green and the new in red as well as numerous before and after photographs.
7. It is clear from this information that there is minimal difference between the size of the former landing and present balcony. Both were constructed of timber, albeit the former structure was very weathered. At close quarters, from the ginnel off Vicarage Lane, from near neighbours, and from a distant single viewpoint along the backs of the terraced houses looking from Steyning Road it is possible to see the new balcony. But it is screened by the high evergreen hedge on the property's Vicarage Lane boundary and it is not prominent from any main public viewpoint. In any case it is well constructed of hardwood without a staircase, which from the submitted photos looked to be in a rather poor condition.
8. As the appellant points out, there are several balconies and terraces nearby in the Conservation Area. Many of these are much more prominent than the appeal proposal. I do not know when these were constructed and it is possible that they predate the designation of the Conservation Area, did not require permission at the time or were permitted under a different policy framework. Nonetheless, they are part of the Conservation Area's character and so I see no in principle objection to the proposal.
9. For the above reasons I conclude it would not harm the character and appearance of the area. On the contrary, it is an improvement on the previous staircase and landing structure and so I conclude it enhances the character of the Rottingdean Conservation Area and would comply with Policies HE6 and QD14 of the Brighton and Hove Local Plan (LP), which requires such alterations to preserve or enhance such areas and to be well designed. It would also meet the requirements of *Supplementary Planning Documents 12* because the balcony would not be in a prominent location visible from the street.

### *Living Conditions*

10. Anyone standing or sitting on the balcony has a clear view of neighbours' windows and gardens, in particular those of 1 and 2 Vicarage Lane, the cottage behind No 1 and the rear gardens of 110 and 112 High Street. There is no doubt that such overlooking affects the privacy of these neighbours.
11. However, such overlooking is no worse than that occasioned by the former staircase and landing. Since this gave access, albeit as a fire escape, to the former first floor flat it is possible that it was used more than the present balcony is or is likely to be since access is now solely gained off the back bedroom of the house.
12. The LPA envisage that its larger size could result in the dwelling's occupants sitting on the balcony which could give rise to noise nuisance to neighbours. Whilst this is possible the size of the balcony is only marginally larger than that

of the previous staircase landing, which occupants could also have sat out on, and so any such activity is unlikely to give rise to any more noise nuisance than the previous structure. The fact that the building is now a single house in my opinion will also decrease this likelihood because the occupants could use their rear garden for, for example, sitting out on summer evenings as an alternative to the balcony.

13. For these reasons I conclude that the new balcony is unlikely to significantly harm the living conditions of neighbours with particular reference to privacy and noise, when compared with the authorised previous structure. LP Policy QD27 states that permission will not be granted where it would cause material nuisance and loss of amenity to existing residents. For the above reasons the proposal would comply with this Policy.

### **Conclusion**

14. The Council has not suggested any conditions and I do not consider any to be necessary given that the proposal is retrospective and I have determined it is satisfactory and complies with development plan policy.
15. For the reasons given above I conclude that the appeal should be allowed.

*Nick Fagan*

INSPECTOR

