APPEAL STATEMENT OF CASE

Site: Dolphin Court, Shelley Road, Worthing BN11 4DD

Proposal: Mansard roof extension to provide 4 no. residential units

Application Ref: AWDM/1103/25

Decision: Refusal dated 5 November 2025

EXECUTIVE SUMMARY

This appeal relates to a proposal for a mansard roof extension to the existing 1970s addition at Dolphin Court, providing four additional residential units within a highly sustainable town-centre location.

The scope of the appeal is narrow. The Council accepts the principle of development and raises no objections in respect of housing delivery, sustainability, highways, flood risk or internal standards. The appeal therefore turns solely on matters of design judgement and residential amenity.

The proposal is strongly supported by national policy. Paragraph 73 of the National Planning Policy Framework confirms that small and medium-sized sites make an important contribution to housing delivery and should be supported. Paragraph 125(e) goes further, expressly supporting airspace development (including mansard roofs). The issue in this appeal is therefore not the acceptability of the roof form in principle, but the quality of its design response.

In design terms, the proposal responds directly to the identified shortcomings of the existing 1970s extension, which the Council acknowledges as having a utilitarian appearance and a poor relationship with the host building – this proposal seeks to remedy that. The replacement of the flat roof with a mansard form, together with associated enhancements (including rendering), would result in a more coherent and better resolved building. This represents a clear visual improvement and a logical, policy-supported intervention.

In terms of residential amenity, the Council's concerns have been carefully disaggregated and assessed. With regards Dolphin Court, a detailed daylight and sunlight assessment (Appendix 1) demonstrates that impacts on light are limited and acceptable. Relationships with Queen's Mansions reflect an established pattern of mutual overlooking, which is not materially altered by the proposal. Concerns in respect of Hopedene Court are framed in terms of perceived overlooking, which does not equate to demonstrable harm and can be appropriately mitigated.

Overall, the identified impacts are limited, localised and, in part, perceptual. They do not amount to unacceptable harm.

By contrast, the proposal delivers clear benefits, including the provision of additional housing and a tangible improvement to the character and appearance of the building. These are material considerations which must be afforded appropriate weight and cannot reasonably be diminished.

When assessed in the round, the proposal accords with the development plan and the Framework. The refusal reflects a difference of planning judgement rather than a clear policy conflict.

Accordingly, the appeal should be allowed

1. Introduction

This appeal is made against the refusal of planning permission for a mansard roof extension to Dolphin Court.

The proposal relates solely to the 1970s addition and represents an efficient use of airspace above an existing building in a highly sustainable location. The Council accepts the principle of development. Accordingly, the appeal is confined to matters of design judgement and residential amenity.

2. Site and Context

Dolphin Court comprises a Victorian villa with a later three-storey flat-roofed extension constructed in the 1970s. The extension is of limited architectural merit and is identified by the Council as exhibiting a utilitarian appearance and weak relationship with the host building.

The surrounding area is characterised by dense flatted development, including Queen's Mansions and Hopedene Court. Close relationships, limited separation distances and mutual overlooking are established characteristics of the locality.

3. Planning Policy Context

The NPPF, as a whole.

Specifically relevant to this appeal are:

Paragraph 73 of the NPPF confirms that small and medium-sized sites make an important contribution to housing delivery and that windfall development should be supported, *'giving great weight to the benefits of using suitable sites within existing settlements for homes'.*

Paragraph 125(e) of the NPPF states that planning decisions should support opportunities to use the airspace above existing buildings for new homes, including mansard roofs.

Paragraph 130(c) of the NPPF (our emphasis) states:

'Local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).'

Relevant Planning Policies

Worthing Local Plan 2020-2036 (WBC 2023):

SP1 (Presumption in Favour of Sustainable Development)
SS1 (Spatial Strategy)
DM1 (Housing Mix)
DM2 (Housing Density)
DM5 (Quality of the Built Environment)
DM15 (Sustainable Transport and Active Travel)
DM16 (Sustainable Design)
DM17 (Energy)
DM20 (Flood Risk and Sustainable Drainage)

4. Principle of Development

The principle of development is accepted. The proposal would deliver four additional residential units in a highly sustainable town-centre location and aligns with the overarching objectives of national policy.

Whilst it is common ground that, at the time of the decision, the Council could demonstrate a five-year housing land supply, this does not diminish the positive weight that should be attributed to the delivery of additional housing. Paragraph 73 of the National Planning Policy Framework is clear that small and medium-sized sites make an important contribution to meeting housing needs and should be supported through decision-taking, with great weight given to the benefits of such sites.

The proposal represents the type of development envisaged by national policy. It would make efficient use of previously developed land, optimise the use of an existing building, and contribute to the delivery of housing within an established settlement. These are core objectives of the Framework, which seeks to promote the efficient use of land and the optimisation of sites in sustainable locations.

In this regard, the appeal proposal is not marginal in policy terms; it aligns directly with the Government's objective of making the most effective use of land within urban areas. The delivery of additional housing in such locations should therefore be afforded great weight, irrespective of the Council's current housing land supply position.

5. Design and Visual Impact

The assessment of design and visual impact must begin with the existing condition of the building, which is not neutral and is, in fact, expressly criticised within the Officer's own report. Whilst it is not suggested that any form of development would therefore be acceptable, the proposal clearly presents an opportunity to address those identified shortcomings.

The 1970s extension is identified as exhibiting a number of negative characteristics, including its flat roof form, "utilitarian appearance" and weak relationship with the host Victorian villa. It is an unsympathetic addition which detracts from the coherence of the building as a whole. That is the correct baseline against which the appeal proposal must be assessed.

In this context, the proposal is not an arbitrary addition, but a direct and logical response to those identified deficiencies. It replaces a poorly articulated flat roof with a structured mansard form, introduces a more coherent roofscape, and resolves the upper part of the building in a manner that is both legible and proportionate.

Flat roofs of the existing nature are rarely regarded as positive features, particularly where they are attached to traditional buildings. By contrast, mansard roofs are a long-established and widely accepted urban roof form, commonly used to accommodate additional residential floors while maintaining a contained and visually balanced profile.

This is not simply a matter of architectural preference. Paragraph 125(e) of the National Planning Policy Framework expressly recognises and supports upward extensions, including mansard roofs, where they are well designed and respond appropriately to their context. The issue in this appeal is therefore not whether a mansard roof is acceptable in principle – it accords with the aspirations of the NPPF— but whether the proposal represents a well-considered and proportionate design response.

In this case, it clearly does. The proposal would soften the current visual discord created by the flat-roofed extension and provide a more coherent and balanced roof form.

Whilst it is suggested that the extension would be dominant, this is not agreed. The proposed mansard is confined entirely to the later 1970s addition and does not compete with or overwhelm the host building. Instead, it improves the relationship between the two elements and would clearly read as the upper, and final, addition to that part of the building.

It is also relevant that the scheme includes wider enhancements to the appearance of the building, including external rendering and the removal of incongruous PVC fascia boarding. These elements contribute positively to the overall composition of the building and should be afforded positive weight.

The Council's conclusion that the proposal would result in harm to the character and appearance of the area fails to give sufficient weight to the poor quality of the existing baseline and the extent to which the proposal would improve it.

When assessed properly, the proposal represents a logical, policy-supported and visually beneficial form of development. The Council's position is therefore best understood as a difference of design judgement, rather than a clear conflict with the development plan.

6. Residential Amenity

The Council's concerns in respect of residential amenity must be carefully disaggregated. The Officer's report identifies three distinct strands of impact:

- alleged impacts on daylight, outlook and enclosure affecting Dolphin Court;
- concerns regarding privacy and overlooking in relation to Queen's Mansions; and
- concerns relating to perceived overlooking in respect of Hopedene Court.

These impacts are materially different in nature and must be assessed accordingly.

Dolphin Court – Daylight, Sunlight and Outlook

The Council alleges that the proposal would result in unacceptable impacts in terms of daylight, outlook and overshadowing, with particular reference to second floor south-facing windows.

In response to the LPA's reason for refusal, these assertions have been objectively tested through the submission of a detailed Daylight and Sunlight Report (refer to Appendix 1).

Paragraph 130(c) of the NPPF (our emphasis) states:

"Local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards)."

The assessment demonstrates that the proposal would result in a low level of impact on neighbouring light levels, with a high degree of compliance with BRE guidance. The results confirm that:

- daylight and sunlight levels remain within acceptable parameters; and
- any reductions are limited and consistent with expectations for a dense urban environment.

It is also well established that BRE guidance is advisory rather than prescriptive, and should be applied flexibly, particularly within town centre contexts such as this.

In these circumstances, the Council's assertion of unacceptable overbearing or overshadowing impact is not supported by objective evidence.

The following examples of appeal decision are relevant:

No.7–15 Blount Street, Tower Hamlets (PBSA) — APP/E5900/W/23/3332263 — Allowed (24 Jun 2024) - Appendix A1

The Inspector emphasised that the BRE guide is 'not prescriptive' and should be applied flexibly in built-up locations. The Inspector weighed the context (narrow street, overhanging balconies) and concluded the scheme would not cause an unacceptable material deterioration overall, so permission was granted.

No.17–37 William Road, Camden (student housing) — APP/X5210/W/21/3284957 — Allowed (24 Apr 2023) - Appendix A2

After setting out the BRE tests (VSC/NSL/APSH), the Inspector accepted that although some rooms fell short, 'the sunlight levels would be acceptable in this case'.

Tower Hamlets, Whitechapel (major mixed use) — APP/E5900/W/17/3171437 — Allowed (2018) - Appendix A3

The Inspector agreed that the BRE guide gives general (not rigid) standards, especially for inner-city schemes, and noted that residual VSC values in the mid-teens have been found acceptable on comparable London projects. It was concluded that retained daylight/sunlight levels would be adequate and comparable with urban conditions.

No.1 Norwood Walk West, Sittingbourne (householder appeal) - APP/V2255/D/24/3337879 – Allowed (8 May 2024) - Appendix A4

The Inspector noted that the LPA's assessment 'complies with the BRE Daylight and Sunlight Good Practice Guidance' and concluded that light impacts would remain acceptable.

Whilst the Appellant clearly understands that 'each application is judged on its own merits' it is reasonable to draw upon how the Inspectorate has considered and accepted the acceptability of BRE guidance in a national context. Some of the presented examples do not meet the BRE guidance, yet, the Inspectorate have allowed the appeals. It is noted that PINS widely acknowledge that the BRE is not prescription.

The BRE guidance itself also reinforces flexibility, noting that it is advisory, not mandatory. Case law (R (Rainbird) v London Borough of Tower Hamlets [2018] EWHC 657 (Admin) (Appendix CL1)) enshrines the advisory nature of BRE.

Both the NPPF and BRE acknowledge that location must also be taken into account. In this case, the urban fabric and setting justify a proportionate approach. Indeed, such an 'airspace' approach is promoted in the NPPF.

<u>Queen's Mansions – Privacy and Overlooking</u>

The Council raises concerns regarding overlooking between the southern elevation of Dolphin Court and the northern and eastern elevations of Queen's Mansions, at separation distances of approximately 14.5m (direct) and 12.5m (oblique).

However, it is critical to recognise that this relationship already exists. The existing building already gives rise to mutual overlooking between the two properties at these distances. The proposal does not introduce a new relationship, but rather builds upon an established urban arrangement.

The Council suggests that the proposal would "intensify" overlooking, in part due to the inclusion of an additional storey. That conclusion is not supported by a clear or consistent analysis.

In particular, the Council's position appears to rely on a simplified assumption that additional height necessarily results in materially greater overlooking. That is not the case when the relationship between buildings is properly understood in three dimensions.

As existing, upper floor windows within Dolphin Court already sit above lower floor windows within Queen's Mansions, just as upper floor windows within Queen's Mansions overlook lower levels within Dolphin Court. This is a reciprocal and inherent characteristic of multi-storey flatted development.

The addition of a further storey does not fundamentally alter that relationship. Rather, it maintains the same pattern of inter-visibility at a slightly higher level.

In that context, it is not clear how the proposal would give rise to a materially different or more harmful form of overlooking than that which already exists.

The Council also places reliance on a "rule of thumb" separation distance however, it does not specify this distance. This has no basis in development plan policy and is not a determinative test. Such guidelines (if identified) must be applied flexibly, particularly within dense urban environments where closer relationships are commonplace and accepted. This is clearly the case here, where the existing development already operates at these distances.

The proposal does not bring development any closer to Queen's Mansions. It is well established that a degree of mutual overlooking is an inherent characteristic of residential environments. The correct assessment is therefore whether the proposal would result in material additional harm, which in this case it does not.

The reference to "oblique" overlooking is also noted. However, planning assessments are undertaken on the basis of normal domestic occupation, which assumes casual and incidental views rather than deliberate or sustained surveillance.

With further reference to the 'rule of thumb', this would be assumed to reflect a direct line of sight, not an oblique relationship. As the angle is more oblique, clearly, shorter distances must be acceptable.

No material deterioration in living conditions has been demonstrated.

<u>Hopedene Court – Privacy and Perceived Overlooking</u>

The Council's concerns in respect of Hopedene Court are framed primarily in terms of the perception of overlooking, arising from separation distances of between opposing windows.

At the outset, it is important to recognise that a relationship already exists between the western elevation of Dolphin Court and the eastern elevation of Hopedene Court. The proposal does not introduce a new relationship between previously unconnected buildings; rather, it extends an established pattern of inter-visibility within a dense urban context.

The proposal would introduce a single additional storey. It would not fundamentally alter the nature of the relationship between the buildings, but would instead represent a continuation of an existing urban condition, where relatively close proximities and mutual overlooking are already present.

The Council's concern is explicitly directed toward the perception of being overlooked. However, planning decisions must be based on objective effects on living conditions, not perception in isolation. The presence of overlooking, or an increased awareness of it, does not in itself amount to unacceptable harm.

In this case, any potential impacts can be readily and effectively mitigated through standard planning conditions. The submitted plans demonstrate that the windows serving the affected

elevations can be obscure glazed where necessary. In practice, certain windows — such as those serving bathrooms — would typically be obscure glazed in any event.

Furthermore, the internal layout of the proposed units is such that key habitable rooms benefit from dual aspect arrangements, including southern-facing bedrooms and northern-facing living spaces. This ensures that, even where mitigation is applied, there would be no adverse impact on the living conditions of future occupiers.

In these circumstances, any residual perception of overlooking would be no materially different to that which already exists between the buildings. It would not give rise to a material deterioration in the living conditions of neighbouring occupiers.

This distinction between perceived and actual harm is well established in appeal practice. While each case turns on its own merits, Inspectors consistently assess whether overlooking results in a harmful change in living conditions, rather than relying on perception alone.

Accordingly, the Council's position represents an overstatement of perceived impacts, rather than an evidence-based conclusion of unacceptable harm. When assessed properly, the proposal would not result in a harmful level of overlooking and is consistent with the expectations of Policy DM5.

Such matters are inherently a question of planning judgement and must be assessed having regard to the actual spatial relationship between buildings, the positioning and height of openings, and the prevailing character of the area. In this case, when these factors are properly considered — including the elevated window positions, the absence of direct views at normal eye level, and the established urban context where mutual awareness between properties is typical — it is clear that no unreasonable or material perception of overlooking would arise. Any suggestion to the contrary is therefore overstated and not supported by the physical relationship on the ground.

The submitted information also demonstrates that there would be no impacts on daylight, sunlight, or overshadowing to Hopedene Court.

Overall Amenity Conclusion

When the Council's concerns are properly disaggregated and assessed, it becomes clear that:

- the alleged impacts on light are objectively shown to be acceptable;
- the relationship with Queen's Mansions reflects an established pattern of mutual overlooking, with no material intensification of harm; and
- the concerns in respect of Hopedene Court are based on alleged perception rather than demonstrable impact, and can be appropriately mitigated.

In these circumstances, no unacceptable harm to residential amenity has been demonstrated.

7. Planning Balance

The proposal must be assessed in the round, having regard to the development plan and the National Planning Policy Framework.

The benefits of the scheme are clear and substantial. The proposal would deliver four additional residential units in a highly sustainable town centre location, making efficient use of previously developed land. This is a form of development to which national policy affords great weight, particularly in light of paragraph 73 of the Framework, which emphasises the important contribution of small and medium-sized sites.

In addition to the delivery of housing, the proposal would result in a clear and tangible improvement to the appearance of the building. The existing 1970s extension is expressly identified as exhibiting a utilitarian and visually weak form. The introduction of a mansard roof, together with associated external enhancements including rendering and the removal of incongruous fascia elements, would result in a more coherent and better resolved building.

These are not neutral matters. They are positive benefits of the scheme which must be afforded appropriate weight in the planning balance. It is not appropriate to discount or diminish such improvements simply because they arise as part of a wider proposal. Planning decisions must assess the development as a whole, and the enhancement to the building's appearance is a material consideration which weighs in favour of the scheme.

Against these benefits, the Council identifies harm in respect of design and residential amenity. However, for the reasons set out above, those concerns do not withstand scrutiny.

In design terms, the proposal represents a logical and policy-supported response to an identified weakness in the existing building, and results in a clear visual improvement. The Council's position reflects a difference of design judgement rather than demonstrable harm.

Even if the proposals are considered visually neutral, appropriate weight must be given to the provision of four residential units.

At worst, the proposal would result in a neutral or marginal change in visual terms, and any limited harm would not be of such significance as to outweigh the benefits of the development.

In terms of residential amenity, the alleged impacts have been shown to be limited and acceptable. The effects on daylight and sunlight have been objectively assessed and found to comply with relevant guidance. The relationships with neighbouring properties reflect established urban conditions, and the concerns regarding overlooking are either unchanged from the existing situation or based on perception rather than measurable harm.

Taken together, the identified impacts are limited, localised and, in part, perceptual. They do not amount to significant or demonstrable harm.

In these circumstances, the benefits of the proposal — including the delivery of additional housing and the clear improvement to the character and appearance of the building — are not outweighed by the impacts identified by the Council.

The refusal of planning permission therefore reflects a difference of planning judgement, rather than a clear conflict with policy. When assessed against the development plan and the Framework as a whole, the proposal represents sustainable development for which planning permission should be granted.

8. Conclusion

The appeal proposal represents a sustainable form of development which accords with the development plan when read as a whole and with the National Planning Policy Framework.

The Council accepts the principle of development and raises no objections in respect of housing delivery, sustainability, highways, flood risk or internal standards. The matters in dispute are therefore limited to design and residential amenity.

For the reasons set out in this statement, the proposal represents a well-considered and policy-supported design response, which would improve the appearance of the existing building and result in a more coherent and better resolved form of development.

In terms of residential amenity, the alleged impacts have been carefully examined and do not give rise to unacceptable harm. The effects on daylight and sunlight have been objectively assessed and found to be acceptable. Relationships with neighbouring properties reflect established urban conditions, and concerns regarding overlooking are either unchanged from the existing situation or based on perception rather than demonstrable impact.

When assessed in the round, the proposal delivers clear and identifiable benefits, including the provision of additional housing and a tangible improvement to the character and appearance of the building. These benefits have not been appropriately weighed by the Council.

The proposal also delivers social benefits through the provision of housing, which must attract great weight (paragraph 73). Positive economic weight should also be attributed through both the construction phase and increased local spending in the area. No adverse environmental impacts are identified and, indeed, the proposal represents an appropriate and efficient use of land through building upon an existing building.

The refusal of planning permission reflects a difference of planning judgement, rather than a clear conflict with policy.

Accordingly, it is respectfully requested that the Inspector allow this appeal.