



Appeal Decision

Site visit made on 21 April 2021

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2021.

Appeal Ref: APP/A2280/W/20/3264012

Flat A, 179-181 Rochester Avenue, Rochester, Kent, ME1 2DS

- 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 Shayanthan Thayanathan against the decision of Medway Council.
 - The application Ref MC/20/1985, dated 22 August 2020, was refused by notice dated 19 October 2020.
 - The development proposed is a first floor roof terrace on the existing flat roof of commercial shop below, 1.5m high close boarded fence set back a minimum of 1.0m from boundary line to adjoining property; door opening on first floor to terrace.
-

Decision

1. The appeal is dismissed.

Main issues

2. The main issues in this appeal are the effect of the proposed development on the living conditions of adjoining occupiers and on the character and appearance of the area.

Reasons

3. The proposed roof terrace would utilise the majority of an existing area of flat roof at the property, which can be accessed via a door at first floor. This area would be enclosed by a 1.5m high close-boarded fence.
 4. The extent of the area to be enclosed by this fence is large, and it would bring a new sitting out area in very close proximity to the houses to the west. This would allow clear views over the gardens to those houses at an elevated position. The 1.5m height of the fence would not prevent a serious loss of privacy occurring as views over that height would be possible. This is would be a materially greater degree of overlooking in the area than currently exists.
 5. The proximity and elevation of the terrace would also lead to noise disturbance for the adjoining property both within the garden and to the rooms of that house: I saw at my site visit the proposed terrace would be close to the rear windows of the neighbouring building. The height of the fence would also be an overbearing presence from the neighbouring property. The harm to living conditions would be contrary to Policy BNE2 of the Medway Local Plan 2003, which ensures all new development protects the amenity of nearby and adjacent properties.
-

6. The provision of a fence to the height and extent shown would create a discordant feature in the street scene; it is not typical to see fences of this type, extent, scale and design in elevated positions such as this. Such views would be possible from along the Rochester Avenue properties to the west and also from Delce Road to the east. This would be harmful to the character and appearance of the area and so conflict with Policy BNE1 of the Local Plan which requires all new development to be appropriate in relation to the character, appearance and function of the built environment.
7. I acknowledge that the proposed works would benefit the occupiers of the dwelling by providing a sitting out area. However, I must balance this against other matters, and it is my overall conclusion that the extent of the roof terrace and the fencing would to a degree of harm to the living conditions of neighbouring occupiers and to the character and appearance of the area that outweigh the benefits.
8. I also note the appellant's suggestion of changing the proposed enclosure to obscure glazed screens, and the Council have commented on this matter. I consider such a change would not address the shortcomings of the proposal, namely that there would still be an unacceptable harm to living conditions through a loss of privacy and from disturbance, whilst obscure screens would still be visible in the wider area and hence appear discordant and harmful to character. My findings remain the same, and so the appeal is dismissed.

C J Leigh

INSPECTOR