



Appeal Decision

Site visit made on 5 January 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2022

Appeal Ref: APP/L2250/W/21/3277439

110 Sandgate Road, Folkestone CT20 2BW

- 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 Panayiotis Matheou against the decision of Folkestone and Hythe District Council.
 - The application Ref 21/0216/FH, dated 1 February 2021, was refused by notice dated 10 June 2021.
 - The development proposed is erection of a first and second floor extension to provide 1 x studio flat, 2 x one bedroom and 1 x two bedroom residential flats (4 flats total) over existing commercial unit with associated cycle and refuse storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties have been invited to comment on the implications of the revised NPPF for this appeal and I have taken into account any responses received.

Main Issues

3. The main issues are:
 - i) Whether the proposed development would provide acceptable living conditions for future occupants, with regard to outlook and outdoor amenity space.
 - ii) The effect of the proposed development on the living conditions of the occupants of 108 Sandgate Road, with particular reference to overshadowing, natural lighting and outlook.

Reasons

Living Conditions of Future Occupants

4. The Council's concerns relate to the living conditions of proposed units 1, 2 and 3 (as annotated on the supporting plans). From Unit 1 outlook would only be possible from the clear glazed openings facing on to the terrace and this outlook would be towards the flank wall of 114 Sandgate Road, which contains several openings at this level. Despite the angled views that the windows would offer along the flank wall of 114, due to the combination of the limited extent

of clear glazing that would serve this unit and the proximity to 114, I find that outlook experienced by its occupiers would be poor and this would create a heavily enclosed effect within the unit. I consider the inclusion of an outdoor terrace to this unit would do little to mitigate for the poor outlook from the internal area, particularly due to its proximity to 114 and as it would be heavily overlooked by the adjacent windows.

5. Unit 2 would be dual aspect and would include two habitable rooms served by large clear glazed windows and Juliette balconies facing north. While bedroom 2 would be served by an obscure glazed west facing window, it would also be served by a north facing window which could reasonably be clear glazed and openable, which would provide adequate outlook for this bedroom. Therefore, overall, unit 2 would provide an acceptable standard of accommodation, including adequate outlook. The unit does not, however, have access to private outdoor space, in conflict with policy HB3 of the Places and Policies Local Plan 2020. This is discussed further below.
6. Unit 3 would be a single aspect studio flat with outlook only possible from the glazing of the Juliette balcony. Occupants of this unit would experience limited and heavily restricted outlook by reason of its proximity to 114. Similarly in the case of unit 1, I acknowledge that the angle of the Juliette balcony allows outlook along the flank wall of 114 rather than straight towards it. The design of the second floor of 114, including its set back and terraces facing Town Walk, would to some degree also result in better outlook when compared to that experienced from unit 1 on the first floor. However, overall outlook would remain poor and I find that the proposals would not deliver an acceptable outlook to the future occupiers of this unit.
7. Outlook is an important attribute of achieving acceptable living conditions and local policy HB1 identifies that outlook should be assessed in considering amenity of future occupiers. While assessment of outlook involves a degree of judgement this does not reduce the weight which I afford to the harm to the living conditions of units 1 and 3 or determine that greater flexibility should be applied in respect of this issue.
8. While policy HB3 requires private outdoor space for new dwellings, I agree that given the site constraints in this case, the delivery of good quality outdoor spaces would be difficult to achieve. However, considered cumulatively with the poor standard of outlook achieved from units 1 and 3, the absence of any quality outdoor space would further exacerbate the heavily confined and unacceptable living conditions that those units would provide.
9. I note that the Inspector who considered the development at 114 Sandgate Road assessed the issue of outlook of future occupiers. However his considerations related primarily to the locations of the 'winter gardens' which formed part of that development proposal. While the Inspector accepted a reduced outlook from the bedrooms to provide for the 'winter gardens', I consider the circumstances of that development, its relationship to surrounding development at that time, and the outlook it would have achieved, are materially different to the current appeal scheme.
10. While I acknowledge that a town centre residential development would likely be of a higher density and may deliver a different standard of living conditions than in a predominantly residential area, I do not consider that the town centre

location of the appeal site would sufficiently justify an unacceptable standard of living accommodation.

11. I have considered the examples of historic development found around other parts of Folkestone's town centre, which provide reduced levels of outlook as a result of the close proximity of buildings. However this is an inherent characteristic of those historic developments and the reduced quality of outlook in such development does not convince me that poor outlook would be acceptable within the appeal scheme.
12. For the above reasons, I conclude that the proposal would harm the living conditions of future occupiers with reference to outlook and provision of outdoor amenity space. As such the proposals would not accord with the living conditions aims of policies HB1 and HB3 of the Places and Policies Local Plan.
13. The proposals would also be in conflict with paragraph 119 of the Framework which supports the efficient use of land for homes, but while ensuring safe and healthy living conditions.

Living Conditions of Number 108 Sandgate Road

14. Number 108 Sandgate Road neighbours the appeal site to the east. This building is unextended to the rear at the first and second floor levels, and has a rear building line and roof level consistent with that at the appeal site. The rear elevation of 108 includes a number of equally sized windows. Based on the information before me I understand the upper floors to provide two units of residential accommodation above the ground floor commercial use. I understand those rear facing windows serve a combination of habitable and non-habitable rooms, where the habitable rooms are bedrooms.
15. The proposals would introduce an unrelieved flank wall two storeys in height immediately to the west of the first and second floor rear windows of 108. This would appear dominant in the views and outlook from those windows, particularly from those closest to the appeal site where the proposed development is likely to appear oppressive and have an overbearing effect on the internal living spaces. Despite the second floor of the proposal incorporating a set back at its northern end, this is unlikely to have any notable benefit to the outlook experienced from those windows.
16. The 'Shadow Study' which forms part of the appellant's Design and Access Statement, provides illustrations of likely shadows arising from the proposed development. As the rear windows in 108 are north facing, the development proposed would not cause greater overshadowing of those windows, only of the area of flat roof beyond, which is not accessible to those residents. Calculations of the Average Daylight Factor (ADF) for three rear facing windows have also been provided, demonstrating that those windows would continue to achieve standards of daylight which comply with BRE guidance. I have no reason to disagree with the information provided and I am satisfied that levels of daylight to those windows of 108 would be acceptable, including the impact of overshadowing.
17. However, while the levels of natural lighting to those windows may be acceptable, this would not adequately mitigate for the large expanse of flank wall which would have a harmful and oppressive impact on the outlook from

habitable room windows and which in turn, would result in unacceptable harm to the living conditions of those neighbouring occupiers.

18. I have considered the comments from both parties and the appeal decision relating to the neighbouring development at 114 Sandgate Road, and note that the impact of this development on its neighbour to the west, 116 Sandgate Road, was eventually found to be acceptable. The Inspector's decision (reference APP/L2250/W/19/3227201) considered the impact on 116 in respect of daylight and sunlight, in response to the Council's reason for refusal, and the Council subsequently accepted that the impact on the living conditions of 116 was acceptable.
19. Despite this, there are important differences in the relationships between 114 and 116, and the appeal site and 108. This includes the difference in the roof levels of 114 and 116, the raised position of the rear second floor windows of 116, and the presence of a single door rather than a window in the rear first floor level of 116 closest to the boundary. I have no evidence before me to suggest that this was not the case at the time of that assessment and these factors result in that development having a materially different impact on its neighbouring occupiers. For this reason I do not consider that the conclusions on this neighbouring development provide reason for me to accept the impact of the appeal scheme on 108 Sandgate Road.
20. By reason of the harm identified to the neighbouring occupiers at 108 Sandgate Road, the development would be contrary to policies HB1 and HB8 of the Policies and Places Local Plan insofar as they seek to protect the amenities of neighbouring occupiers.

Other Matters

21. The site lies within the Folkestone Leas and Bayle Conservation Area. I note that the Council found the development to be acceptable with regard to its visual impact. Based on the findings of my site visit and following my assessment, I have no reason to disagree and I find that the development proposed would preserve the character and appearance of the Conservation Area, due to its location behind the main frontage and relationship with the more contemporary built forms to the north.
22. I note the appellant's concerns relating to the change of Officer between the pre application and application stages, and how the issues in question were handled at these stages. However, that does not alter my conclusions on the main issues set out above.

Planning Balance and Conclusion

23. The proposals would result in harm to the living conditions of future occupiers of the development, in particular to units 1 and 3, and would result in harm to the living conditions of 108 Sandgate Road in terms of outlook. To these harms I attach substantial weight.
24. While the proposals would provide the visual benefit of mirroring the massing and design of the neighbouring development, in this particular context I afford this benefit only moderate weight due to its location to the rear of the main street frontage. The proposals would also deliver new homes within Folkestone town centre and would, to some degree, support local economic activity and regeneration. However the benefit to the economy which would arise from the

additional 4 units proposed would likely be modest and I afford this benefit moderate weight.

25. Overall, I do not consider that the benefits of the appeal scheme sufficiently outweigh the harms that would arise to the living conditions of future occupants and neighbouring occupiers. I conclude that the development would be contrary to the development plan as a whole and that conflict is not outweighed by other material considerations in this instance. The appeal should therefore be dismissed.

C Shearing

INSPECTOR