



Appeal Decision

Site visit made on 10 May 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2022

Appeal Ref: APP/Z2260/W/21/3289627

Flat 3, 7 Ethelbert Crescent, Margate CT9 2AY

- 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 Stuart Lancaster against the decision of Thanet District Council.
 - The application Ref F/TH/21/0959, dated 15 August 2021, was refused by notice dated 11 October 2021.
 - The development proposed is described on the application form as installation of balcony to the rear overlooking properties garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address of the appeal site given on the application form is 'Flat 3, 6 Ethelbert Crescent'. The address used on the Council's decision notice, appeal form and appellant's appeal statement describe the location as 'Flat 3, 7 Ethelbert Crescent'. From the submitted plans and from what I observed when I visited the site, this latter description more accurately defines the location of the appeal site. I have therefore used this address for the purposes of the appeal, including in the banner heading.

Main Issues

3. The main issues are the effects of the proposed development on:
 - the character and appearance of the area, including the Clifftop Conservation Area; and
 - the living conditions of neighbouring occupiers with specific regard to privacy.

Reasons

Character and Appearance

4. The appeal property comprises a five storey (including basement) mid terrace dwelling which has been converted into flats. The appeal proposal relates to the first floor flat. The property lies within the Clifftop Conservation Area, a designated heritage asset.
5. From the evidence before me and my observations, the significance of the Conservation Area, in part, derives from its architectural and historic interest associated with the development of this part of Margate as a seaside town

during the latter part of the 19th and early 20th centuries, the evidence it provides of the architectural style and building techniques of the time and its cliff top location with views of the sea.

6. The Conservation Area includes a number of substantial terraced properties with a sea front aspect. These terraces have decorative front elevations, with regular fenestration including bay windows to the basement and ground floor levels, and entrances framed by columns supporting first floor balconies with ornamental metal railings. In contrast, the rear elevations are less detailed. During my site visit I observed that the appeal property and the terrace in which it sits share many of these characteristics and make a positive contribution to the significance of the Conservation Area.
7. The proposed balcony would be visible from a number of the amenity areas and windows of the properties in the immediate vicinity and from the access road that runs to the rear of the terrace. Due to the layout of existing buildings, there would only be glimpsed views of the proposed balcony from Dalby Square and Athelstan Road at the point near to the rear access road.
8. As the proposal would affect the rear of the property, it would be largely unnoticed in the majority of public views and the effect on the townscape would not be as apparent as a change to the front of the property. However, the character of the Conservation Area derives from the buildings, layout and surrounding spaces as a whole, regardless of whether particular elements are open to public view. Its significance does not therefore rely only on the elements that can readily be seen.
9. There are many examples of properties with balconies in the vicinity and the metal railing proposed would be similar in character to the metal work used on these. Terraced properties with balconies and railings make a positive contribution to the character and appearance of the Conservation Area and the area in general. However, the balconies are mainly located to the front elevations. It is common for the rear elevations of properties from this time period to have less formality than the more ordered and ornate front elevations, which is the case with the host building and terrace as a whole. That does not take away from the significance of the rear elevations, and indeed forms part of the character and appearance of these buildings. The introduction of a balcony at first floor level, together with the likely addition of items associated with its domestic use, would harmfully jar with the simple vernacular of the rear elevation of the host building and terrace.
10. The uniformity and rhythm of the rear elevation of the terrace has been disrupted to an extent by extensions and differing fenestration and facades. Nevertheless, whilst the proposal would be relatively modest in scale, its siting and proposed use would introduce an incongruous addition which would exacerbate this disruption at the mid rear elevation of the terrace. The various alterations to the rear of the terrace would not justify the harm that the proposal would cause.
11. The appellant would be willing to include 1.8 metre opaque acrylic glass panels to address the Council's concerns about overlooking. However, this would give the proposed balcony a more substantial form, and it would be seen as a bulky addition to the rear of the terrace, thus exacerbating its discordant appearance.

12. My attention has been drawn to other balconies on nearby properties. On the basis of the available evidence and what I observed, the scheme at 38 Ethelbert Road would be less visible than the appeal proposal, and the roof terrace would be created at a lower level on the rear elevation. This example is not therefore directly analogous to the appeal proposal. I do not know the circumstances that led to the presence of the other examples, but regardless, rear balconies are not so prevalent in the locality as to be characteristic of it. In any event, I have determined this appeal on its individual planning merits and have found that it would be harmful for its own specific reasons.
13. The proposed development would therefore detrimentally affect the character and appearance of the area. It would fail to preserve or enhance the character or appearance of the Conservation Area and would cause less than substantial harm to its significance as a whole. Although I have found that the harm to the Conservation Area would be less than substantial, even so, this harm is of considerable importance and weight. Under such circumstances, paragraph 202 of the National Planning Policy Framework (the Framework) advises that the harm should be weighed against the public benefits of the proposal.
14. Whilst I acknowledge that the balcony would provide a valuable outdoor amenity space for the appellant, this would be a private benefit limited to them. It would not therefore amount to a public benefit.
15. Paragraph 199 of the Framework states that great weight should be given to the asset's conservation. Paragraph 200 requires clear and convincing justification for any harm to or loss of significance of a designated heritage asset. Consequently, the harm I have identified to the Conservation Area attracts considerable weight against the proposed development. There is no public benefit that would outweigh the harm that would be caused.
16. For the above reasons, I conclude that the proposed development would significantly harm the character and appearance of the area and would not preserve or enhance the character or appearance of the Conservation Area. Consequently, it would conflict with Policies QD02 and HE02 of the Thanet District Council Local Plan, adopted 2020 (the Local Plan) which seek to promote or reinforce local character and require new buildings in conservation areas to respond sympathetically to their context. It would also conflict with the requirement of paragraph 197 of the Framework to take account of the desirability of sustaining and enhancing the significance of heritage assets and new development making a positive contribution to local character and distinctiveness amongst other matters.

Living Conditions

17. Despite the fact that the balcony would be set back from the end of the ground floor extension that projects further to the rear, its position, size and elevated height would result in users of the balcony being able to look directly into the outdoor amenity area at the rear of 7 Ethelbert Crescent. There would also be the potential for views into the rear outdoor area of 6 Ethelbert Crescent.
18. The presence of rear facing windows at upper levels mean that these areas are not particularly private. However, the balcony would introduce a further elevated and projecting vantage point, which would afford its users a more open view. In addition, the balcony, although not large, would still be of a useable area to support activities such as sitting or eating out and other social

use of the space. Given the likelihood of a more prolonged and social use of the balcony, the effect of overlooking would be significantly more intrusive than from views from the rear windows.

19. The scale, elevation and siting of the balcony would mean that it would likely be visible from the outdoor amenity areas of nos. 6 and 7. This would be likely to lead to occupiers of these properties experiencing a significant increase in the perception of being overlooked when in their outdoor area. Alongside the increased potential for direct overlooking that would occur, this would substantially reduce privacy and detract from the enjoyment of the outdoor spaces.
20. Furthermore, the use of the balcony would be most likely to occur in pleasant weather when other residents would also be most likely to use their outdoor space. The effect of overlooking would therefore occur at times when outdoor amenity areas would be most valued.
21. The appellant highlights that the basement flat of no. 7 has a certificate of lawful use as a holiday let. However, holiday let accommodation such as this would still be within a class C3 use. Moreover, holiday guests should still expect a reasonable standard of privacy.
22. This is also the case for guests of the adjacent hotel. The proposed balcony would allow for overlooking of a number of the hotel windows in close proximity and from a higher level. I have no conclusive evidence indicating the layouts of the rooms with windows facing towards the proposed balcony. If some do serve bedrooms, given the position of the proposed balcony in close proximity and at a higher level, there is an unacceptable risk that the proposal would cause harm to the living conditions of guests with regard to overlooking and privacy.
23. The use of privacy screens, as described above, would offer some reduction in views from the balcony. However, this would not, in my view, prevent the perception of being overlooked.
24. The balcony would afford direct views to the outdoor areas associated with a number of the properties to the rear of Ethelbert Crescent. However, there would be a moderate separation distance. As such, there would not be an unacceptable degree of overlooking.
25. I conclude that the proposed balcony would result in significant harm to the living conditions of neighbouring occupiers, having regard to privacy. It would therefore conflict with the residential amenity requirements of Policy QD03 of the Local Plan and paragraph 130 of the Framework.

Conclusion

26. The proposed development would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal should therefore be dismissed.

F Wilkinson

INSPECTOR