



Appeal Decision

Site visit made on 9 August 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2022

Appeal Ref: APP/J2210/W/21/3284873

Flat 6, Kingsley Court, 73 New Dover Road, Canterbury CT1 3DZ

- 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 Farnham against the decision of Canterbury City Council.
 - The application Ref CA/21/01104, dated 29 April 2021, was refused by notice dated 27 September 2021.
 - The development proposed is balcony and lowered window opening with French doors.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's decision notice contains two reasons for refusal but the second reason is a repetition of the first. It is clear from the officer report that there were intended to be two reasons for refusal, addressing the separate issues of character and appearance and the living conditions of neighbours. The appellant's Statement identified this error and addressed both issues. Therefore, I am satisfied that the appellant has not been prejudiced as a result of the Council's mistake.

Main Issues

3. Accordingly, the main issues in this appeal are the effect of the proposed development on a) the character and appearance of the building and wider area, with particular regard to the Canterbury (New Dover Road and St Augustine's Road) Conservation Area; and b) the living conditions of neighbouring occupiers, with particular regard to overlooking and loss of privacy.

Reasons

Character and Appearance

4. The appeal site comprises a rear, first floor flat in Kingsley Court, a large detached red brick building, with accommodation at basement, first, second and roof levels. The site is located within the Canterbury (New Dover Road and St Augustine's Road) Conservation Area.
5. The conservation area contains a variety of buildings, typically detached, and varying in size from somewhat taller Victorian villas on large plots to more modest 20th century suburban housing on smaller, but still spacious plots. Gaps between properties are a common feature although they vary in size.

Notwithstanding this and the variety of building designs, there is a degree of uniformity in architectural detailing and prominent use of red brick and tiled roofs. There is extensive mature tree and shrub coverage within gardens, much of which is visible along New Dover Road. The character of the conservation area appears predominantly that of a Victorian suburb.

6. The appeal building positively contributes to the character and appearance of the conservation area. The building has been subject to some alteration and change over the years but retains many of its original features, proportions and overall character. One area where alterations are evident is to the rear, on the south-eastern end of the building, where a roof terrace has been created for a top floor flat. These works are visible from within the site and Rochester Avenue but have been integrated into the fabric of the building such that they are not overly noticeable or disruptive to the building's overall appearance.
7. The neighbouring flat to the appeal property at first floor level also appears to benefit from having access to the flat roof over a ground floor projecting bay. Although it is not clear whether this roof area is able to be used as a terrace, were it to be used in this way, it would be within the building's existing envelope.
8. In contrast, the proposed metal balcony would introduce a new projection from the side of the building, necessitating the replacement of the existing sash window with French doors in order to facilitate access to the balcony. As a whole, these works would introduce alien features onto the side of the building, upsetting the existing composition of the elevation and causing harm to the appearance of the building.
9. The balcony would be recessed such that it would not be visible from New Dover Road. Glimpses of the balcony would be possible from Rochester Avenue although this is outside of the conservation area. Therefore, in relation to the effect of the development on the wider area generally the proposal would have a marginal effect. With regard to the conservation area specifically, I find that its core value would be preserved and that the works themselves would not affect the character or appearance of the conservation area.
10. Nevertheless, the proposal would cause harm to the character and appearance of the building such that it would be contrary to Policies DBE3 and DBE6 of the Canterbury District Local Plan 2017 (the 'Local Plan'). These policies, amongst other things, seek to ensure the design and appearance of an extension and alteration are compatible with the local context and a building's character. The proposal would also be contrary to Paragraph 130 of the Framework, which amongst other things, seeks to ensure developments are sympathetic to local character.

Living Conditions of neighbouring residents

11. The existing windows serving the appeal property provide views across and into the Lodge at No.75 New Dover Road, and also towards No.1 Rochester Avenue, to the rear of the appeal site. The balcony would also overlook parts of the communal gardens serving Kingsley Court.
12. The proposed balcony would introduce a projecting vantage point at first floor level, which would afford its users a closer and more open view into some of the closest windows within the side of the Lodge. Furthermore, despite the

planting on the boundary, given the relatively short distances involved, users of the balcony would also be more evident from this neighbour's windows and garden area, when compared to the existing windows of the appeal site. Consequently, there would be intrusion and loss of privacy to the neighbouring occupiers in this regard.

13. Although the balcony would allow for views of No.1 Rochester Avenue, the size and orientation of the balcony would not be likely to encourage it. Together with the distances involved, any effects on this neighbour are unlikely to be significant compared to the existing situation.
14. The garden areas to the side and rear of the appeal building are communal. Given this and that they are already overlooked from the building, users may not anticipate complete privacy when in the garden. Nonetheless, the balcony would project above the side garden and introduce a new and more apparent vantage point from which to overlook the gardens. This overlooking would undoubtedly reduce the attractiveness of the building's side garden area to some other occupiers of Kingsley Court and on this basis would weigh against the proposal.
15. Taking all the above into account, I therefore conclude on this issue that the development would cause harmful overlooking and a loss of privacy to neighbouring occupiers. As such, the proposal conflicts with Policies DBE3 and DBE6 of the Local Plan, which amongst other things, seek to ensure developments are compatible with adjacent users and prevent adverse impacts from overlooking and loss of privacy.
16. The proposal would also be contrary to Paragraph 130 of the Framework, which amongst other things, seeks to ensure developments create a high standard of amenity for existing and future users.

Other Matters

17. I have not had further regard in this decision to concerns over how the Council handled the application as this is an administrative matter to be taken up directly with them. I have focused on the planning merits of the scheme in regard to the main issues of the case.

Conclusion

18. The proposal would harm the character and appearance of the building and the living conditions of neighbouring occupiers such that it would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR