

Appeal Decision

Site visit made on 22 August 2022

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14th September 2022

Appeal Ref: APP/L2250/W/21/3289458

Flat 3, Castle Glen, 22-24 Castle Road, Sandgate, Folkestone CT20 3AG

- 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 Gary Liptrott against the decision of Folkestone & Hythe District Council.
 - The application, Ref. 21/1156/FH, dated 23 May 2021, was refused by notice dated 14 October 2021.
 - The development proposed is the creation of a roof terrace area with new opening and glazed handrail and privacy screen.
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Decision

1. The appeal is allowed and planning permission is granted for the creation of a roof terrace area with new opening and glazed handrail and privacy screen at Flat 3, Castle Glen, 22-24 Castle Road, Sandgate, Folkestone in accordance with the terms of the application, Ref. 21/1156/FH, dated 23 May 2021, subject to the conditions in the attached Schedule.

Main Issue

2. The appeal site lies within the Sandgate High Street Conservation Area, but I agree with the Council that the proposed glazing is sufficiently modest in scale and discreet in siting not to have any harmful effect on its character and appearance. Accordingly, the main issue is the effect of the use of the proposed roof terrace on the living conditions for adjoining occupiers by reason of an actual or perceived loss of privacy and by noise and disturbance.

Reasons

3. As regards privacy, the flat roof proposed for the terrace is positioned between the main building of Castle Glen flats and No. 20 Castle Road, a three storey semi-detached Victorian / Edwardian house. However, to the rear this roof stops short of the corner of the main block where the rear wall returns and accommodates a balcony to the living room of the appellant's flat. The neighbouring property at No. 20 has a substantial single storey rear addition and the effect of this is to considerably lengthen the distance between the southern end of the proposed terrace and the rear garden of this neighbour.
 4. Bearing this in mind together with the proposed 1.8m high privacy screen, I consider there would be no overlooking and resulting loss of privacy, or indeed any reasonable perception thereof, for users of the outside area of No. 20. The
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existing balcony does have views over No. 20's rear garden, albeit at a distance, but these would not be added to by the appeal scheme.

5. As regards the windows in the flank of No. 20, there is an obscure glazed bathroom window at the eyeline of any user of the terrace, but given the nature of this glazing and the privacy screen along the western edge of the proposed terrace there would be no loss of privacy. Moreover, the two higher level windows in this side elevation of No. 20 are neither at a height nor a proximity that would allow views from the terrace into the rooms that they serve.
6. The second aspect of the Council's refusal is an assertion that the use of the terrace would cause noise and disturbance. The ground floor flat in Castle Glen provides the roof that would be used for the floor of the terrace. However, the appeal application refers to soundproofing, and this can be the subject of a condition to ensure that the floor's construction would prevent any noise and vibration from footsteps
7. This leaves the issue of a potential for noise and disturbance for No. 20, and on this point I have carefully considered the objection letter from the occupier of that dwelling. However, in addition to at least some mitigation of noise from the privacy screen and the gap between the two buildings, the exterior wall of this very substantial building is in my view of a construction likely to provide significant attenuation.
8. As regards the transmission of noise through the three windows, the bathroom is a non-habitable room. It has not been made clear as to the exact use of the rooms which the other two windows serve, although the officer's report says they are not habitable rooms and the occupier of No. 20 refers to them being 'busy areas'. Be that as it may, I take the view that their height above the proposed terrace (particularly the above-eaves dormer which in any event is very small) does not make them particularly susceptible to noise and disturbance from reasonable and considerate use of the terrace including conversation at a normal volume. And as with any outside area, in the event that there is unreasonable noise and disturbance there is a remedy in terms of a complaint under Environmental Health legislation.
9. I conclude on balance that in this residential location close to the sea where terraces and balconies are part and parcel of the character and appearance of the area, the effects in this instance on neighbours' living conditions as described would not be such as to be unacceptable and in conflict with Policies HB1 & HB8 of the Council's Places and Policies Local Plan 2020 and paragraph 130f) of the National Planning Policy Framework 2021.
10. I shall therefore allow the appeal. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and is in the interests of proper planning. A condition stipulating the prior approval of the Council for the screening glazing and terrace floor soundproofing will safeguard neighbours' living conditions.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this Decision;
- 2) The development shall be carried out in accordance with the following approved plans: Drawing Nos. PL_101; PL_102; PL_103; PL_110; PL_111; PL_113; PL_115; PL_116;
- 3) The development shall not be carried out other than in full accordance with details of the proposed obscure glazing screens and floor soundproofing that have been first submitted to and approved in writing by the Local Planning Authority.