



Appeal Decision

Site visit made on 30 May 2023

by Michael Evans BA MA MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th June 2023

Appeal Ref: APP/H2265/D/23/3314875

2 Albion Close, Hadlow TN11 0DR

- 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 Richard Kent against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/22/02358/FL, dated 25 October 2022, was refused by notice dated 14 December 2022.
 - The development proposed is described on the application form as "Retrospective application for single storey rear extension and roof terrace".
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Preliminary matters

1. In the decision below I have amended the description of development given on the application form to exclude the term "retrospective application" because this does not, in itself, comprise an act of development. Despite the development having already been built, I shall consider this appeal on its own planning merits.

Application for costs

2. An application for costs was made by the Appellant against Tonbridge and Malling Borough Council. This application will be the subject of a separate decision.

Decision

3. The appeal is allowed and planning permission is granted for a single storey rear extension and roof terrace, at 2 Albion Close, Hadlow TN11 0DR, in accordance with the terms of the application, Ref TM/22/02358/FL, dated 25 October 2022, the plans Ref BDS-AC-01 and BDS-AC-02 and subject to the following condition:
 - 1) Within four months of the date of this decision an obscure glazed privacy screen with a height of 1.85 metres shall be erected along the full length of the edge of that side of the roof terrace at the southern end next to the attached dwelling at 1 Albion Close. This screen together with that to the other side of the roof terrace at the northern end shall thereafter be retained.

Main issues

4. The main issues in this appeal are:

- The effect on the character and appearance of the host dwelling and locality.
- The effect on the living conditions of the occupiers of the adjacent dwelling, at 1 Albion Close, with particular regard to privacy.

Reasons

5. The appeal concerns a two storey semi-detached dwelling. The development comprises the construction of a single storey extension at the rear with a terrace having been created on the flat roof. The latter is surrounded by a glass screen, which is 1.85m high at the side that faces towards the adjacent dwelling to the north. To the other side and at the front it is 1.2m high. The parts to the sides have obscured glazing.
6. In Local Development Framework Saved Policies 2010, Policy Annex PA4/12 it is stated that: "The provision of a balcony above a flat roofed extension will not be acceptable unless fitted with a privacy screen to block out flank views into the private area of adjoining properties. Such privacy features must be designed so that they do not harm the character or appearance of the individual dwelling or the wider area".
7. The host dwelling has a gable ended form with a fairly small pitched roof ground floor addition next to that the subject of this appeal. The rear of the property has a somewhat plain, simple and low-key character. Because the front faces towards Maidstone Road and the fairly modest extent of the gaps between the dwellings in Court Lane, there are no obvious points in these streets from where the development might be seen. There is no clear evidence before me of any publicly accessible viewpoints and I did not see any at my site visit.
8. The Council indicates that there are no other roof terraces in the wider area. However, this is not, in itself, evidence of a detrimental impact. Moreover, the pair of dwellings do not form part of a larger cohesive group, with the detached property to the north being of a noticeably different design and there being no immediately adjacent dwellings to the south. In consequence, the balcony has not disrupted any significant degree of consistency or uniformity.
9. It is also a relatively lightweight feature set against the backdrop of the house. Moreover, its size and scale are fairly modest, with the top below the eaves level of the host dwelling. It also only spans about half of the width of the rear elevation. As a result, in views from nearby gardens it is not unacceptably dominant or visually intrusive.
10. In these circumstances, the roof terrace is not unduly prominent and does not comprise an unacceptably alien feature, despite being at first floor level. Rather than detracting from the character of the rear of the dwelling, the clean lines of this contemporary structure enhance it by adding articulation and visual interest.
11. For the above reasons, it is concluded that there has been no harm to the character and appearance of the host dwelling and locality. There is compliance with Core Strategy 2007, Policy CP24 and Managing Development and the Environment 2010, Policy SQ1, which are relevant in this case. Taken together and, among other things, these intend that development should be of

- a high quality, respecting the site and surroundings while protecting local distinctiveness.
12. In the National Planning Policy Framework (The Framework) Paragraph 130 it is indicated that decisions should ensure that developments meet a number of considerations, which have been satisfied in this instance. These include that the proposed development should add to the overall quality of the area, as well as being visually attractive and sympathetic to local character. This is not an example where development fails to be well designed and there is no conflict with Paragraph 134 of the Framework.
 13. At the side of the terrace facing towards no. 1 Albion Close, the attached dwelling, the privacy screen is only 1.2m high. This enables an unacceptably high degree of overlooking of the adjacent rear garden in particular. However, this is a matter that could readily be addressed by the imposition of a condition requiring the erection of a 1.85m high obscured glass screen, similar to that at the opposite side. Subject to this, there would be no unacceptable loss of privacy from overlooking at the neighbouring house.
 14. The nearest dwellings in Court Lane have relatively long rear gardens so that the rear windows of these dwellings and the parts of the amenity spaces nearest the houses are at a fairly long distance from the balcony. In these circumstances there has been no unacceptable reduction in privacy at these properties and I note that the Council has raised no objections in this respect.
 15. Due to the above factors, it is concluded that the living conditions of the occupiers of the adjacent dwelling, as well as other properties, would not be harmed. In consequence, the scheme would comply with Local Development Framework Saved Policy 2010, Policy P4/12 which, as well as other things, seeks to prevent such adverse effects. It would also accord with the Framework, which indicates that developments should promote a high standard of amenity for existing and future users.
 16. This is a case where there would be no harmful impact. The scheme would also comply with the development plan and the Framework, as well as Policy Annex PA4/12. As a result, taking account of all other matters raised, the appeal is successful. In reaching this decision I have considered the photographs submitted and the representations made by a local resident, as well as the views of the Parish Council.
 17. Because the development has already taken place no conditions are needed apart from that referred to above. The retrospective nature of the scheme means that a time limit must be given for erection of the screen. In the event of non-compliance with the deadline the Council would be able to enforce against the failure to carry out the required action. The Council and Appellant were given the opportunity to comment on this condition and their views have been taken into account.

M Evans

INSPECTOR