
Appeal Decision

Site visit made on 25 February 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2025

Appeal Ref: APP/K1128/W/24/3351460

Court House, 40 Buckley Street, Salcombe, Devon, TQ8 8DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs S King against the decision of South Hams District Council.
 - The application Ref is 1322/24/FUL.
 - The development was originally described as “householder application (under a full plans application form) for new glass and stainless steel balustrade system in lieu of the original approved (ref no 3253/22/FUL) to match material finishes of modern works.”
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the Council’s notice of decision, the National Planning Policy Framework (the Framework) was revised on 12 December 2024. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes albeit that paragraph numbers have changed. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context.
3. At the time of my site visit, I saw that the development of the glass balustrade was substantially complete. It is noted that the application has been submitted retrospectively. I have dealt with the appeal on that basis and the plans before me.

Main Issue

4. The main issue is the effect of the development on the living conditions of nearby neighbours with regard to privacy and light spill.

Reasons

5. Planning permission for access to the upper roof terrace was previously granted under application ref 3253/22/FUL. This permission included some obscure glazed privacy screening which was secured by a planning condition. An alternative glazing arrangement, which is said to have been installed in good faith, is proposed.
6. The appeal site comprises a residential property in an elevated position. It is within an historic waterside town where some mutual overlooking from balconies linked to its tight-knit properties is not uncommon. It is claimed that views into the neighbouring external area had been available prior to recent works being carried out. Be that as it may, I have assessed the development in its present-day sense.

7. Neighbouring terracing below the appeal site is already overlooked from its dining room, though the perception of such effects can be heightened or more intrusive when experienced from the open. Moreover, vantage points on and by the steps outside differ from those inside the appeal building. In that context, the presence of the steps allows those accessing both roof terraces within the appeal site further opportunities, beyond those gained from the dining room or other exposed balcony areas, to look down over neighbouring living space and into a number of windows below. Despite assertions to the contrary, these views are available through and over 2 of the glazed panels.
8. Furthermore, when sat at the lower balcony, I was able to look directly towards the neighbouring lower seating area. In both circumstances set out above, the low level clear glazed panels barely interrupt these views. Consequently, the collective effects of the development introduce unneighbourly additional overlooking into the outdoor living space and windows below the appeal site.
9. While views into the adjoining property with its Juliet balcony and inward opening double doors are at an angle, I was able to look towards and partly into the nearest room when stood on the steps and back from them on the decking. This would be more pronounced when its doors are open. It is acknowledged that the use of the access steps would be likely to be more occasional and fleeting. However, they provide an unrestricted viewing platform that could be made use of, if so desired. Additionally, the steps and adjoining decking are closely positioned near the neighbouring Juliet balcony, which provides little respite from activities and uses that may well extend across many hours of the day. Accordingly, this close external intervisibility facilitated by the proposed glazing arrangement does not maintain satisfactory levels of privacy as required by Policy DEV1 of the Plymouth and South West Devon Joint Local Plan (JLP).
10. The Council is concerned that the clear glazing introduces unacceptable levels of light spill. However, the majority of this light is projected from existing openings that do not directly face those of the neighbouring property. This, together with the intervening distances and urban setting means that harmful effects in this regard are not likely. In the absence of any compelling evidence to the contrary, the development is satisfactory in this respect.
11. Notwithstanding this, for the reasons given, I conclude that the development has a harmful effect on the living conditions of nearby neighbours with regard to privacy. As such, there is conflict with JLP Policy DEV1.

Other Matters

12. There are a number of listed buildings nearby. Consequently, there is a statutory duty to pay special regard to the desirability of preserving their setting. The appeal proposal has no effect on their setting. Furthermore, neither party has raised any concerns in this respect. Accordingly, I am satisfied the proposal meets the requirements set out in s.66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 (The Act).
13. The appeal site is in the Salcombe Conservation Area where there is a statutory duty under s.72 (1) of the Act to pay special regard to the desirability of preserving or enhancing its character or appearance; and, as set out in the Framework, where great weight should be given to the asset's conservation. The appeal proposal has

a neutral effect on the Conservation Area, thus preserving it. Therefore, in this regard, the proposal satisfies the requirements of the Act.

14. In that context, the appellant submits that the scheme is more aesthetically pleasing than the previous permission with a better continuity of design. Furthermore, they note that its design is safer and more appropriate for the current occupiers, though there is no reason why an extra handrail or alternative design could not achieve this. Even so, these are not matters disputed by the Council. Neither do they outweigh the harm caused to the living conditions of neighbouring occupiers.
15. The lack of objection from neighbouring occupiers of the terrace below the appeal site is acknowledged. However, this is not a reason in itself to allow unacceptable development.
16. My attention has been drawn to the lack of reference made by the Council to the Salcombe Neighbourhood Development Plan and viewpoints from Buckley Street. This is not a matter determinative to the appeal outcome.

Conclusion

17. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR