
Appeal Decision

Site visit made on 25 March 2025

by **C Mayes CMLI**

an Inspector appointed by the Secretary of State

Decision date: 4 June 2025

Appeal Ref: APP/E2001/D/24/3358050

Cedar Lodge, 21 Hawthorne Avenue, East Riding of Yorkshire, Willerby HU10 6JQ

- 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 Kitney against the decision of East Riding of Yorkshire Council.
 - The application Ref is 24/02384/PLF.
 - The development is proposed glass balustrade and screening to existing roof.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. From my site visit I could see that glazed balustrades are already present to all 3 sides of the flat roof of the existing single-storey extension to the rear of the appeal property. The application form states that the development commenced in June 2024 but at the time of my site visit had not been completed.
3. Therefore, for the purposes of clarity, based on plans submitted with the application and all other information before me, insofar as it is relevant, the appeal is for the erection of:
 - a 900mm high, clear-glazed balustrade to the rear and side adjacent to 19 Hawthorne Avenue of the flat roof to the rear of the appeal property; and,
 - a single 1.8m high opaque-glazed screen to the side adjacent to 23 Hawthorne Avenue of the flat roof to the rear of the appeal property.

Main Issues

4. The effect of the appeal development on:
 - the character and appearance of the site and the surrounding area; and
 - the living conditions of neighbouring occupants at No 19 and No 23 Hawthorne Avenue, with particular regard to privacy and noise and disturbance.

Reasons

Character and Appearance

5. The appeal property is a detached dormer bungalow on Hawthorne Avenue located between the junctions with Ash Grove and Overton Avenue. This section of the street is comprised of, predominantly, detached dormer bungalows with occasional two-storey detached, semi-detached and terraced properties set within evenly spaced plots with space between each dwelling or group of dwellings. Dwellings are sited

within plots such that they have modest front gardens and long rear gardens. The area has a suburban residential character.

6. To the front, the appeal property appears little changed and complements the neighbouring properties adding positively to the character and appearance of the area. The rear of the property has a single-storey, flat-roofed extension (the rear extension) that has altered the rear of the property but is visually discreet, predominantly constructed from matching materials and is subservient to the main part of the dwelling. Other properties in the area have been extended or have single storey detached structures to the side or rear. Predominantly, rearward extensions and development are small in scale, subservient to and with roof profiles below the main roof of each principal building.
7. The rear extension was granted planning permission in May 2018 (18/00432/PLF). I have not been provided with evidence that indicates that this permission restricted the use of the flat roof in any way. Therefore, the use of the roof as a terrace may be considered part and parcel of the residential use and incidental to the enjoyment of the dwelling. The proposed glass balustrade would allow safe use of the roof terrace.
8. The balustrade is constructed from clear glass panels set within polished metal posts and with a polished metal handrail. The proposed 1.8m high screen that would replace the side adjacent to No 23 would be constructed in a similar fashion but using opaque glass panels. The balustrade is set around the edge of the flat roof of the rear extension.
9. The balustrade is at odds with the host property in terms of materials and form. While the rear of the property has been altered by the rear extension, it draws on and respects the materials and architecture of the original dwelling. The roofline of the rear extension is lower than the pitched roof of the original part of the dwelling, which results in a complementary relationship between the two. The balustrade has the effect of visually raising the level and line of the flat roof, placing it at odds with the pitched roof of the original part of the dwelling and disrupting the relationship between the two. The balustrade is constructed from reflective materials that draw attention and are at odds with the muted palette of materials employed elsewhere.
10. The 900mm high glass balustrade is clearly visible from Hawthorne Avenue between the host property and No 23 and is out of character with both buildings and the surrounding area. The balustrade is also prominent in views from gardens in the surrounding area. The visual prominence and negative effect of the balustrade would be significantly increased by the doubling in height and opaque nature of the glazed screen to one side, as proposed.
11. Taking the above into account, I conclude that the appeal development would result in a harmful effect on the character and appearance of the host property and surrounding area. Hence, it would conflict with Policy ENV1 of the East Riding Local Plan Strategy Document, April 2016 (the Local Plan), which seeks, among other things, to respect the character and appearance of the area through the use of good design and particularly through appropriate scale, height and use of materials

Living Conditions

12. The use of the flat roof (the roof terrace) of the rear extension as additional, external living space allows views into both neighbouring properties and would, in general use, result in a degree of noise and disturbance. However, due to the elevated nature of the roof terrace, use as external living space would result in occupants of

neighbouring dwellings experiencing greater levels of noise and disturbance than would result from similar activity at ground level.

13. Currently most of the garden to No 23, including the private space immediately to the rear of the property, is visible from the roof terrace. I note the appellant's point that the lower parts of the garden to No 23 are also visible from upper-floor windows in the appeal property and that this part of the garden is partially screened by vegetation.
14. The proposed 1.8m high opaque-glazed screen would limit views from the roof terrace and prevent overlooking of the private space immediately to the rear of No 23, although much of the garden would remain visible. However, noise emanating from the use of the roof terrace would not be significantly reduced by the erection of the proposed screen. I therefore find that the proposed 1.8m high opaque-glazed screen would reduce the harmful effects on the living conditions of occupants of No 23 resulting from the use of the roof terrace by limiting overlooking but would not alleviate the harmful effects of noise and disturbance.
15. Part of the roof to the rear extension, between the roof terrace and the boundary with No 19, is a shallow-pitched sedum roof. This provides a degree of separation between the roof terrace and No 19. Much of the lower part of the garden to No 19 is obscured from view from the roof terrace by mature vegetation. However, the private space immediately to the rear of No 19 is visible from the roof terrace. Furthermore, No 19 has been extended to the rear to provide additional living space. Windows and a part-glazed rear entrance door in this extension face toward the appeal property.
16. I observed during my visit that the glass balustrade already present does nothing to prevent direct views from the roof terrace into the internal living space of No 19. Moreover, it would not reduce the effects of noise and disturbance. Both the effects of overlooking and noise and disturbance would be to the detriment of the living conditions of occupants of No 19.
17. The appellant has suggested that, if the degree of harm to the living conditions of occupants of No 19 is considered unacceptable, then the erection of a 1.8m high opaque-glazed screen, similar to that proposed for the other side of the roof terrace, could be conditioned as part of any permission granted. However, I am of the opinion that this would substantially change the nature of the application before me, would not address the effects of noise and disturbance and would add to the harmful effects of the appeal development on the character and appearance of the area as identified above.
18. Taking the above into account, I conclude that the proposed development would result in a harmful effect to the detriment of the living conditions of the occupants of No 19 and No 23, in respect of privacy and noise and disturbance. It would therefore conflict with Policy ENV1 of the Local Plan, which seeks, among other things, to have regard to the amenity of existing properties.

Other Considerations

19. The roof terrace is accessed by a set of doors leading from a first-floor bedroom. While a departure from the planning permission granted for the rear extension this access benefits from a lawful development certificate granted in October 2024. As mentioned above, I have not been provided with evidence that indicates that the use of the roof terrace is restricted in any way. The appellant has indicated that, as a fallback, they would continue to use the roof terrace even if the appeal scheme was dismissed. On this basis, there is a greater than theoretical possibility that the use of the roof terrace would continue.

20. Without the erection of the proposed 1.8m screen the fallback position would likely have a greater negative effect on the privacy of the occupants of No 23. However, when assessed as a whole, the fallback position would not have the same harmful effect on the character and appearance of the host property and surrounding area. Furthermore, the appeal scheme would facilitate safer use of the flat roof through the introduction of the balustrading, and this would likely intensify its use and the associated noise and disturbance I have already found harmful. Therefore, the fallback is a different scheme that in my judgement would be less harmful than the appeal proposal. As a consequence, I find the suggested fallback position to have little weight in the determination of the appeal.
21. The appeal development would result in a harmful effect on the character and appearance of the host property and the surrounding area, as outlined above. Furthermore, it would not alleviate the detrimental effects on privacy and of noise and disturbance from the use of the roof terrace on occupants of No 19 or the effects of noise and disturbance on occupants of No 23. It is therefore my planning judgement that these matters are very significant and attract greater weight in favour of dismissing the appeal development.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal is dismissed.

C Mayes

INSPECTOR