
Appeal Decision

Site visit made on 19 August 2025

by **S Leonard BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 August 2025

Appeal Ref: APP/J1725/D/25/3367845

56 Gale Moor Avenue, Gosport, Hampshire, PO12 2SJ

- 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 Mrs Helen Russell against the decision of Gosport Borough Council.
 - The application Ref is 25/00046/FULL.
 - The development proposed is refurbishment of rear extension and internal reconfiguration works and installation of roof terrace with balustrade.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has included a revised drawing within its appeal statement which increases the proposed balcony balustrade height from 1.1m to 1.8m, in response to the Council's concerns about overlooking.
3. The planning appeals procedural guidance¹ advises that the appeal process should not be used to evolve a scheme and there are no provisions within the Rules for amendments to be submitted. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and on which interested people's views were sought.
4. Having considered the change against the substantive and procedural tests set out in the relevant judgement², I do not consider that there is justification for exceptionally accepting the change. In coming to this view, I have taken into account that the proposed alterations to the scheme would notably alter the visual appearance of the development and its subsequent impact upon the character and appearance of the appeal property and the wider housing terrace.
5. Accordingly, I have determined the appeal based on the scheme which was refused by the Council which includes a balustrade height of 1.1m as referred to in the Council's delegated report. I have not considered the merits or otherwise of amending the scheme.

Main Issue

6. The main issue is the impact of the appeal scheme on the living conditions of the occupiers of neighbouring properties to the west of the appeal site, having particular regard to privacy and noise disturbance impacts.

¹ Procedural Guide: Planning Appeals – England (updated 30 June 2025)

² Holborn Studios Ltd v The Council of the London Borough of Hackney (2018)

Reasons

7. The appeal property lies at the eastern end of a terrace of 10 uniformly designed dwellings with living accommodation over three floors and consistent front and rear building lines. Some of the properties, including the appeal dwelling have single storey rear extensions/conservatories, which extend to a similar depth.
8. All the dwellings benefit from enclosed rear gardens. Those associated with the appeal site and the three properties immediately to the west are particularly generous in size, extending to a depth of around four times that of the original dwellings. As such, they make a significant positive contribution to the living conditions of the occupiers of those properties, and I saw evidence of this during my site visit, having regard to the presence of features that indicate outdoor activity, including patios and outbuildings.
9. The appeal scheme would provide a roof terrace with a usable floor space of around 12.5 sqm. As such, it would provide a generous area of outdoor living space which would be of sufficient size to readily accommodate a range of furniture and domestic paraphernalia associated with outside relaxing, including seating and dining facilities.
10. Moreover, it would be accessed via the kitchen, which in turn leads off the first-floor open plan lounge area. As such, notwithstanding the availability of a large existing outdoor living space within the rear garden of the appeal property, it is still reasonably likely that the proposed terrace would be well-used by the occupiers of the property, including for entertaining guests, having regard to the family-sized nature of the dwelling and the proposed convenient direct access from the existing first-floor living room/kitchen, in comparison to traversing the stairs to access the existing rear garden.
11. The proposed terrace would be sited within close proximity to No.58. This property has a rear conservatory extension whose depth roughly aligns with that of the appeal scheme. Just beyond that is a raised outdoor deck and then the remainder of the rear garden. Both these areas appear to be well-used having regard to their layout and the positioning of garden furniture and other garden items throughout. All three areas are within near distance of the appeal scheme.
12. I accept that overlooking onto the neighbouring conservatory roof would not by itself be harmful. However, even if the perimeter balustrade were to be obscure glazed, given its low height the appeal scheme would still allow direct views over the aforesaid decking and rear garden of No.58 when standing on the balcony and from certain seated positions, resulting in a severe and unacceptable loss of privacy to the outdoor living space.
13. In addition, the east side of the conservatory at No.58 is predominantly clear-glazed and that property also has rear elevation first floor windows, including a large 'feature' bow window. It has not been satisfactorily demonstrated that there would be no direct views from the balcony towards the inside of the conservatory and rear first floor rooms of No.58.
14. I acknowledge that existing first and second floor windows on the rear elevations of all the dwellings in the terrace overlook neighbouring rear gardens. However, such an arrangement of windows is an established and commonplace circumstance within residential built development where some overlooking of rear

gardens from upper floor windows is an expected occurrence. This is significantly different from the appeal scheme which would introduce new and direct overlooking from outdoor living space into a residential setting where such impacts would not be usual or expected.

15. The appeal scheme would also give rise to an increase in open air noise and activity at upper floor level, which would have the potential to significantly harm the living conditions of the occupants of No.58, and to a lesser extent, the neighbouring properties further west along the terrace, due to noise disturbance impacts. Such impacts upon neighbouring gardens would be notably greater than those associated with similar activities at ground floor level where boundary walls and fences, buildings and landscaping all contribute to providing noise buffers.
16. Moreover, noise disturbance would also be reasonably likely to harmfully impact upon the use of the first-floor rear-most living accommodation at No.58, given the close proximity of the proposal to the large rear first floor windows. In coming to this view, I consider that the use of the new balcony for outdoor socialising and recreation would be more likely to occur during periods of dry warm weather, at times when the windows are more likely to be open and, as such, the rooms more susceptible to noise impacts.
17. For the above reasons, I therefore conclude that the appeal scheme would materially harm the living conditions of the occupiers of neighbouring properties to the west of the appeal site, having particular regard to privacy and noise disturbance impacts. As such, the development would not accord with Policy LP10 of the *Gosport Borough Local Plan 2011- 2029* (2015), in so much as this policy, amongst other things, seeks to ensure that development proposals do not cause harm by reason of, inter alia, loss of privacy or noise impacts.
18. This accords with guidance within the *National Planning Policy Framework 2024* (the Framework) which seeks to ensure that developments will function well and promote health and well-being with a high standard of amenity for existing and future users (Paragraph 135).

Other Matters

19. I acknowledge that no objection to the appeal scheme has been submitted by the occupiers of No.58. However, my decision must be based upon the merits of the appeal scheme before me. A lack of neighbour objection in this instance does not justify or overcome the harm that I have identified.
20. I acknowledge the appellant's desire for more private outdoor space, and that the Framework promotes healthy communities and places which promote health and well-being. The appeal scheme would make an efficient use of the space above the roof of the extension. However, the appeal site benefits from a large rear garden, and as such, I am not persuaded, based on the information before me, that there is an identified need for additional outdoor living space to satisfy the requirements of the occupants of the property.
21. There would be economic benefits associated with the construction of the scheme. However, these would be very limited and short term given the small scale of the proposal. As such, they would not outweigh the harm to neighbouring living conditions that I have identified.

22. I attribute neutral weight in the planning balance to a lack of harm identified by the Council in respect of matters including the character and appearance of the area, parking, highway safety and ecology, since these comprise requirements of the development plan in any case.

Conclusion

23. The proposed development would conflict with the development plan taken as a whole, and there are no material considerations, including the Framework, that indicate that a decision should be made other than in accordance with the development plan.
24. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR