



Appeal Decision

Site visit made on 23 September 2025

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 OCTOBER 2025

Appeal Ref: APP/X1118/C/24/3353294

22 Marlborough Road, Ilfracombe, Devon EX34 8JL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Ms Stacey Ferguson against an enforcement notice issued by North Devon District Council.
 - The notice was issued on 30 August 2024.
 - The breach of planning control as alleged in the notice is without planning permission, within the last 4 years, unauthorised development consisting of a glass balustrade around the rear first floor flat roof facilitating the use of the roof as a terrace.
 - The requirements of the notice are to:
 1. Remove glass balustrade from rear roof at first floor level;
 2. Remove all materials and items formerly comprising of the balustrade arising from Step 1 from the Land edged red and dispose of them in a responsible manner.
 - The period for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matters

2. During the course of the appeal the revised National Planning Policy Framework 2024 (the Framework) was published. There are no substantive changes relevant to the appeal before me and therefore no interested parties would be prejudiced by my consideration of the 2024 version of the Framework.

The Appeal on Ground (a) and the Deemed Planning Application

3. The **main issue** is the effect of the development on the living conditions of the neighbouring occupiers at 20, 21 and 23 Marlborough Road, with specific regard to privacy, outlook, as well as noise and disturbance.

Reasons

4. The appeal site comprises a mid-terraced dwelling between 18 and 24 Marlborough Road. The terrace is situated on a steeply sloping street lined with residential properties that are largely consistent in design, characterised by two-storey period properties built from stone and topped with pitched roofs. Notably, there is no setback from the pavement, and aside from small front dormers on 18, 19 and 20 Marlborough Road, the front façades remain largely unchanged.
5. The rear aspect of the terrace is visible from Windsor Court, located to the rear, and partially from Parkers Yard to the side. The property in question is flanked on

one side by 21 and 20 Marlborough Road and adjoins 23 Marlborough Road on the other. A balustrade has been erected atop a flat-roofed rear annexe, creating a roof terrace accessible from the first-floor large window opening. The balustrade is predominantly made of glass and is approximately 1 to 1.5m high.

6. The neighbouring property at 23 Marlborough Road has a two-storey rear extension that directly adjoins the roof terrace. The blank side wall of the two-storey extension negates any impact of the roof terrace on this neighbour. The balustrade extends the full depth and width of the annexe, and its elevation above makes it a tall structure close to the boundary with 21 Marlborough Road. However, as the balustrade is not excessive in height, and is made primarily from glass, it is not an overbearing structure that significantly impacts on the outlook from the garden or first-floor habitable windows at No. 21 or 20.
7. The elevated position and depth of the roof terrace offer users views towards the habitable first-floor windows at both No. 21, which faces the rear, and No. 20, which faces the terrace. The proximity of the roof terrace and the extent to which a user can overlook these habitable windows, as well as the private gardens, is detrimental to the neighbouring occupants' privacy. The roof terrace is small and could not be used for large gatherings, but due to its proximity, even a couple of people using it would result in adverse impacts on the neighbour's living conditions by way of noise and disturbance. This would be exacerbated during unsociable hours, if used in the evening and early morning.
8. I have considered whether a condition requiring a screen could be imposed to limit the level of overlooking, as well as noise and disturbance, to an acceptable level. However, the proximity as well as the depth and height of such a screen would render it overbearing, particularly to the first-floor window at No 21, adversely affecting that occupant's outlook. The erection of a screen would also have a limited effect on reducing the level of noise and disturbance from persons using the terrace, especially in the early morning or late evening.
9. Consequently, the development adversely impacts the living conditions of the occupants at 20 and 21 Marlborough Road, with particular regard to privacy as well as noise and disturbance. This contravenes the aims and objectives of Policy DM01 of the North Devon and Torridge Local Plan 2018, which indicates that development will be supported only when it does not significantly harm the amenities of neighbouring occupiers.

Other Matters

10. I have considered the appellant's claims regarding the need for a fire escape, as well as the assertion that the balcony is well designed and adheres to building regulations. However, no substantive evidence has been provided to substantiate that the development is an essential fire escape or that no alternative safe routes exist. While the good design and compliance with building regulations are acknowledged, these factors do not mitigate the adverse effects of the development on the living conditions of the neighbours.
11. The appellant referred to several similar balcony-type developments in the locality. Nonetheless, I have not received details concerning these developments, including their addresses or the permissions granted. The lack of details regarding the other developments makes it challenging to draw any valid comparisons. As

such, I have assigned this limited weight and have evaluated the appeal based solely on its own merits.

Conclusion

12. In light of the reasons articulated above, it is concluded that the appeal should be dismissed. I shall uphold the enforcement notice and refuse to grant planning permission under section 177(5) of the 1990 Act (as amended).

M. P. Howell

INSPECTOR