

Officer Report

Application No.	21/0097/FH
Site Address	Apartment 5, Bay, 98 St Leonards Road, Hythe, CT21 6HE
Officer Name	Katy Claw
Proposal	Installation of combined visual screening and handrailing to enable the rooftop to be utilised as a terrace.

Recommendation

Report Number	RD-424490
Recommended Decision	Recommended to be Refused
Recommendation Date	10 March 2021

Report

Performance data:-

Date application valid: 19.01.2021

Applicable 8/13/16 week target date: 16.03.2021

Planning Performance Agreement (PPA) or Planning Extension Agreement (PEA) No

If Yes, revised 8/13/16 week target date:

Is the application being determined after 26 weeks without a PPA or a PEA No

SITE VISIT

A site visit has been carried out. The site and proposals were assessed from the public highway. Key features are noted in the assessment.

SITE

The application site forms one of the apartments contained within a reasonably new block of flats constructed on the corner of West Parade and St Leonards Road, within the settlement of Hythe.

The flat subject of this application is located at the upper eastern side of the development and is a 3-bed flat, set over two floors with the upper floor being smaller and set back from the main facades. Each floor of the flat has access to a south facing balcony, one from the open-plan dining/living area at first floor and one from a hallway leading from the stairs on the second floor.

RELEVANT PLANNING HISTORY

Y15/0507/SH - Erection of a 3 storey block of 6 apartments including a basement level for underground parking, following demolition of existing dwelling together associated parking and landscaping.

Approved with conditions

PROPOSAL

This application seeks planning permission for the installation of a combined visual screening and handrailing to enable the rooftop to be utilised as a terrace.

The screening is to be formed of a polyester powder coated aluminium elliptical brise soleil fixed to a galvanised steel raking metal framework with the additional of evergreen shrub planters for further screening.

Frameless glass guarding is to be incorporated to a small section at the front (south) and the rear (north) of the terrace with the brise soleil in-between these glazed areas.

The proposal is partially retrospective. It is understood that the rooftop area is already in use as a terrace but the screening/railings have not been installed. Photos supplied by the applicant show low level wooden planters and a brown decking also appears to have been laid over the original roof covering.

CONSULTATION RESPONSES

Hythe Town Council object on the grounds that the design is not in keeping with the streetscene and the original planning for the building, there are health and safety issues and overlooking of neighbours.

REPRESENTATIONS

6 representations have been received from 3 different interested parties. Comments are available in full on the planning file. They are also summarised below:

- Screening would increase height and bulk of building which is already dominating.
- Neighbouring property already overshadowed and screen would worsen the situation.
- Planting boxes recently placed on flat-roof area.
- Seated persons would have direct vision into neighbouring properties.
- Glazed screening at the end of the louvre section is lower and unclear how overlooking from this area is to be prevented.
- Flat roof has been used as a terrace since last summer.
- Proposed materials and paint is not in keeping with the fabric of the existing building.
- Neighbours houses and gardens would be overlooked.
- Proposal adds nothing to the local streetscene or be in style with the local buildings.
- Suggested condition wording and frosted glass to prevent loss of privacy to neighbours.
- All apartments in the block have access to a terrace area, facing towards the sea with no loss of privacy to neighbours.
- Site is next door to a Grade II Listed Building.
- Development could be seen as a precedent for other development in the future.

PUBLICITY

Neighbours notified by letter. Expiry date 13.02.2021

Site notice displayed. Expiry date 12.02.2021

Press notice. Expiry date 25.02.2021

RELEVANT POLICIES

Core Strategy Local Plan: DSD

Places and Policies Local Plan September 2020: HB1, HB8, HE1

Core Strategy Review Submission Draft 2019: DSD

The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection.

NPPF

NPPG

APPRAISAL

Design and Visual Impact

Policy HB1 PPL refers to 'quality places through design' and says, amongst other things, that planning permission will be granted where the proposal makes a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density, materiality and mix of uses so as to ensure all proposals create places of character'.

Policy HB8 PPLP refers to 'alterations and extensions to residential buildings' and says, amongst other things, that 'alterations and extensions should seek to reflect the scale, proportions, materials, roof line and detailing of the original building and not have a detrimental impact on the street scene, either by themselves or cumulatively'.

The host building has been originally designed and constructed in such a way as to reduce the bulk and soften the visual impact of the development edge of the building when viewed on approach with the junction of St Leonard Road and West Parade, this is evident from the way that the side addition here is set back from the front façade, protrudes from the main building at a lower height, extends out at an angle and then curves round to the north. A similar design has been carried out to the western side although the edge does not curve. This design gives the building an appearance of symmetry and reduces the visual bulk of the development in what could be considered as a highly prominent location. The main building is predominantly finished in a white render with dark aluminium fenestration but the upper floor (second storey) is clad in a dark vertical timber. The design of the building is such that the upper floor is not readily apparent from street level.

In order for the terrace area to be used it is a requirement that a safety balustrade is constructed, in this case an aluminium brise soleil is proposed. The introduction of what could be considered as

quite a visually chunky, grey aluminium structure placed upon the reduced height section of the eastern roof area would give rise to unnecessary bulk on an elevation that has been designed in such a way to reduce the visual impact of the original building in this particular location. The additional balustrade would read as a foreign 'bolt-on' to an area of the building that was never intended to be used as a terrace. Such an addition here would be highly visible from the south, east and west approaches and the resultant development would unbalance the symmetry of the host building which has been designed specifically with the two side wings set at a lower level to the main section. It is for this reason that the proposal would give rise to a visually alien addition when read against the host building and a form of incongruous development when read in context with the wider streetscene.

The brise soleil shown on plan is around 1.6m in height when measured from the top of the parapet wall. If this area was to be used as a terrace then the brise soleil, or some form of balustrade, would be required to be installed to a minimum height of 1.1m in the interests of safety and in accordance with Building Regulations. However, a balustrade at 1.1m would still be visible from outside the site and the LPA considers that the same issues would arise with regards to visual amenity even if a different style/design of balustrade was proposed at a lesser height.

In consideration of the above-matters, objection is raised to the proposed development on design and appearance grounds, contrary to the provisions set out within the Development Plan.

Neighbouring Amenity

There are glazed windows in the eastern corner section of the lower wings of the building, these windows serve the habitable rooms contained within and they face south due to the design of the angled wings. The existing north/northeast facing windows (towards other neighbouring properties) are either high level or top openers and appear as secondary windows or serve non-habitable rooms (evident from looking at the approved plans under Y15/0507/SH).

The general layout and design of the original scheme is one where it seems that overlooking to neighbours located to the north and northeast has been considered and the original design essentially mitigated against any potential for adverse neighbouring impact by limiting the number of windows that may give rise to overlooking and by placing the terraces associated with each flat upon the southern elevation only.

The photos attached to the supporting statement show that from the flat-roofed area, without appropriate screening in place, it would be possible to overlook the private garden of 96 and 96A St Leonards Road. There would also be overlooking to the rooflights within the roofspace of 85 St Leonards Road, some of which (if not all) would likely serve habitable spaces within the dwelling. Overlooking would also occur to the private terrace area of 96A (a reasonably new build) and whilst this area may not be strictly private (it is fronting a public area), the glazing here is frosted to protect privacy of the users as well as ensuring that views out from the terraced area are restricted. It would be possible to look down onto this semi-private terrace area from the proposed terrace without sufficient screening in place.

Point 4 of policy HB1 PPLP says that planning permission will be granted where the proposal '*does not lead to an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook*'. Policy HB8 PPLP says that '*alterations and extensions should protect the residential amenity of the occupants of neighbouring properties and ensure avoidance of unacceptable overlooking and inter-looking*'.

In this case it is clear that, in the interests of neighbouring amenity and in line with Local Planning Policy, the use of the flat-roofed area as a terrace would not be acceptable without sufficient screening in place. Privacy screening would usually be conditioned to be at least 1.8m in height and fully obscure. The only exception here could be to the south facing aspect as this part would not give rise to overlooking issues.

With that in mind there is concern with the proposal as the brise soleil design has gaps between the blades, this means that from a distance views into a site are generally sufficiently obscured, but from up close, such as the case with persons on the proposed terrace, any views out, although partially obscured, could not necessarily be totally ruled out by the use of such a product. Further, the blades of the brise soleil are shown to start above the existing planters, as such neighbours have raised concerns about views obtained from persons seated on the terrace. As a form of mitigation to this concern the agent has proposed additional plant pots planted with evergreen shrubs. (As per email and amended plans received 18 February 2021).

In this case the proposed planters would be hard to secure by condition and given the level of possible overlooking that could arise, they are not considered a practical or permanent solution that the LPA could successfully enforce should the need arise.

In this case, due to the height of the proposed terrace and due the nearby neighbouring properties that would be overlooked as a result, any privacy balustrade would need to be totally opaque, such as in the form of obscure glazing or another suitably solid material (although the former would allow light to pass through), in order to ensure that the use of the roof as a terrace area could not give rise to overlooking or perceived overlooking of the nearby neighbouring properties, in line with local planning policy.

For reasons set out above under 'design and visual impact' there are other issues surrounding a balustrade of the required height and density in this particular location.

Comments have been received from interested parties and comments have been addressed within the body of the report where they are a material planning consideration.

Overall, objections are raised to the proposal on amenity protection grounds.

Impact upon the setting of a Listed Building

The nearby listed building is known as the 'Former Lifeboat House' which is sited to the west of the application site.

The proposed works would affect the eastern side of the host building and the works are fairly minor in nature when considering the host building to which the development relates, as such it is considered that the proposal would have a neutral impact upon the setting of the nearby LB.

Other Issues

Hythe Town Council have objected but as the application has been recommended for refusal the application does not need to be deferred to the planning and licensing committee for determination.

The apartment subject of this application has access to two existing south facing terrace areas and as such the flat meets the requirements for today's 'space standards' for flats and a further terrace is not considered essential or necessary to meet minimum level living standards for the occupiers of the flat.

It is noted that the original planning permission did not place any restrictive conditions with regards the use of the flat roof as terrace area. However, having looked at the original floor plans there is does not appear to be an obvious access point from the upper floor apartments onto the flat-roof, as such it was clearly never intended to be used as terrace and so a condition restricting its use would not have seemed necessary or appropriate to the case officer at the time.

Planning permission has not been sought as part of this application for any constructed access point from the flat to the roof and the access point has not been shown on the submitted plans.

Environmental Impact Assessment

In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Conclusion

The use of the flat-roof for a terrace area in association with apartment 5 would result in unacceptable levels of overlooking to neighbouring properties unless any proposed terrace was screened by fully obscure privacy screens of at least 1.8m in height, to be placed upon the north and east facing elevations.

The proposed brise soleil blades combined with evergreen plant pots are not considered to offer the necessary levels of privacy required given the height of the proposed terrace in relation to the proximity of the neighbouring properties that would be impacted by overlooking or perceived levels of overlooking.

The proposed brise soleil screens would give rise to development that would appear alien to the host building and incongruous within the streetscene as the screens would be placed upon an area of the building that is highly visible from the north, east and south approaches.

The host building has been originally designed in such a way as to reduce visual bulk upon the eastern and western wing elevations and the installation of screens to the eastern elevation would be at a discord and detrimental to the original design of the building.

HUMAN RIGHTS

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

PUBLIC SECTOR EQUALITY DUTY

In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

RECOMMENDATION

In light of the above, it is considered that planning permission should be refused for the reasons set out in the report.

Case Officer:

Report and draft decision notice completed and passed to senior officer.

Name: Katy Claw Position: Planning Officer Date: 11.03.2021

Report and draft decision notice agreed and passed to admin to issue decision.

Name: Helena Payne Position: Strategic Sites Team Leader Date: 11.3.2021

Recommended Refusal Reasons (2)

1

The proposed use of the flat-roofed area as terrace in connection with apartment 5 would give rise to unacceptable levels of overlooking to nearby neighbouring properties without adequate privacy screens in place.

The proposed 1.6m (approximately) high brise soleil and 1m (approximately) high frameless glass guarding (non-obscure) screens together with evergreen shrub pot plants would not offer the required level of mitigation to successfully prevent instances of overlooking due to the design, height and non-permanent nature (evergreen shrub pot plants) of the proposed screening, contrary to policies HB1 and HB8 PPLP which seek to protect neighbouring amenity.

2

The proposed balustrade (bris soleil), by reason of its height, design and material, would result in development which would appear as an foreign 'bolt-on', considered to be at a discord and detrimental to the original design of the symmetric host building, adding significant bulk to the eastern side of the building, in a position that would be highly visible on approach from the north, east and south, forming development that would appear incongruous within the streetscene, contrary to

policies HB1 and HB8 PPLP which seek to approve development that makes a positive contribution to its location and surroundings, where development reflects the scale, proportions, materials, roof line and detailing of the original building and does not have a detrimental impact on the street scene, either by themselves or cumulatively.

Suggested Informatives (1)

3

Your attention is drawn to the fact that this refusal of planning permission is on the basis of submitted documents:

Site Plan as Proposed – 01.638.10 P0 – 19.01.2021

Roof Plan as Proposed – 01.638.11 P0 – 19.01.2021

Supporting Statement – 01 – 19.01.2021

Site Section as Proposed & Brise Soleil Details 01.638.13 P1 – 18.02.2021

Elevations as Proposed – 01.638.12 P1 – 18.02.2021

Email from agent - 18.02.2021