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# Appeal Decision

Site visit made on 22 November 2022

**by K L Robbie BA (Hons) DipTP MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12<sup>th</sup> January 2023**

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**Appeal Ref: APP/E2734/W/22/3306287**

**Garage to the rear of 13/15 Bachelor Gardens, Bilton, Harrogate HG1 3EL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Bob Marks against the decision of Harrogate Borough Council.
  - The application Ref 22/01462/FUL, dated 2 February 2022, was refused by notice dated 12 July 2022.
  - The development proposed is conversion and extension of an existing garage to a self-contained dwelling.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal refers to four reasons for refusal. The Local Planning Authority have confirmed that they no longer wish to defend refusal reasons 3 and 4 relating to highways and parking matters. I have determined the appeal accordingly with reference only to refusal reasons 1 and 2 relating to living conditions of existing and future occupiers.
3. During the course of the appeal, it became apparent that there was a discrepancy in the scale of the plans submitted. The dimensions for the proposal were clarified by way of submission of a set of annotated drawings. The Council was given an opportunity to comment on the plans which were supplied. The annotated drawings indicate that the layout could be amended to increase the floorspace of the dwelling. The appeals process should not be used to evolve a scheme to overcome the Local Planning Authority's objection<sup>1</sup>. The merits of a revised internal layout, would, if necessary, be a matter for the main parties to consider as part of a fresh proposal away from this appeal. I have determined the appeal on the basis of the drawings submitted to the Council.

## Main Issues

4. The main issues are:
  - Whether the proposed development would provide adequate living conditions for future occupiers of the proposed dwelling; and
  - The effect of the proposed development on the living conditions of the occupiers of 1 Knox Close with particular regard to privacy.

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<sup>1</sup> Annexe M of the *Procedural Guide Planning Appeals – England* advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

## Reasons

### *Living Conditions – future occupiers*

5. The Nationally Described Space Standard 2015<sup>2</sup> (NDSS) sets out expected minimum floor standards to ensure that new dwellings provide an adequate standard of accommodation for future occupiers and provides a benchmark for high quality design. Policy HS5 of the Harrogate District Local Plan 2020 (HDLP) seeks an expectation that all new build dwellings should, as a minimum comply with the standards in the NDSS. Any shortfall in the floorspace provided would lead to living conditions for future occupiers which would be poor in quality.
6. The NDSS assumes that 2-bedroomed properties accommodate a minimum of 3 persons. A two storey 2-bedroomed 3-person dwelling, as the Council consider the proposal to be, should provide a total of 70m<sup>2</sup> of internal floor space (noting that any floor space with a ceiling height of under 1.5m should be discounted unless that space is provided solely for storage). Having just over 68m<sup>2</sup> of floorspace over that height, the proposal falls short of these requirements. Furthermore, there is no indication that the required 2m<sup>2</sup> of built-in internal storage required by the NDSS could be accommodated within the layout. Consequently, this would represent an oppressively confined form of internal accommodation for future occupiers.
7. Therefore, the proposed development would fail to provide future occupiers with acceptable internal accommodation. As a result, it would be contrary to HDLP Policy HS5 which seeks to ensure that new homes meet the standards contained in the NDSS. The proposal would also fail to meet the aims of paragraph 130 (f) of the National Planning Policy Framework (the Framework) which seeks to ensure that proposals meet a high standard of amenity for future users.

### *Living Conditions – 1 Knox Close*

8. The existing garage on the appeal site would be altered and extended to create a single storey pitched roof dwelling with mezzanine accommodation in the roof space which would be served by rooflights in the rear roof slope facing 1 Knox Close. The Council contend that the proposal would lead to a perceived sense of overlooking created by the presence of rooflights facing No.1.
9. The rooflights would be above the height of the rear windows of No.1. The appellant has demonstrated that the eyeline of a person standing close to the rooflight would be above the roofline of No.1. Therefore, there would be no actual overlooking caused by the proposed dwelling and the harm would be perceived. Nevertheless, the occupiers of No.1 would be aware of the presence of a residential property on the boundary of their short rear garden. Lights and movement within the appeal proposal would be visible from both the garden and rooms at the rear of No.1. This would mean that even if there were to be no actual overlooking, there would be a sense of perceived overlooking and loss of privacy for the occupiers of No.1. The proximity of the proposal to the rear elevation of No.1 on the boundary would exacerbate this effect.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1012976/160519\\_Nationally\\_Described\\_Space\\_Standard.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1012976/160519_Nationally_Described_Space_Standard.pdf)

10. For these reasons, therefore, the proposal would harm the living conditions of the occupiers of 1 Knox Close with particular regard to privacy. The proposal would conflict with HDLP policy HP4, which seeks to protect the amenity of residents from the harmful effects of development, in so far as it relates to overlooking and loss of privacy, and for similar reasons the proposal would not meet the aims of paragraph 130 (f) of the Framework.

### **Other Matters**

11. The proposal would deliver one additional dwelling. This is a principle supported by development plan policies and the Framework. I have attributed moderate weight to this benefit. However, neither the support for new housing in the development plan or the Framework should be at the expense of ensuring all development is appropriate, including ensuring adequate living conditions for existing and future occupiers.
12. My attention has been drawn to planning permission for a dwelling in a back lane setting elsewhere in the borough. I do not have the full details of this case before me which appears to have been granted prior to the adoption of the current Local Plan. From the information before me it would appear that this proposal had a different relationship with surrounding houses than the proposal before me. Accordingly, its circumstances are not directly comparable with those which apply in this case and does not persuade me to reach an alternative conclusion on the appeal before me.
13. I have been provided with a completed form which indicates that the proposal maybe suitable as a self-build unit. However, I have no mechanism before me, for example, a Section 106 Agreement, by which this could be secured. Even if I were to agree that the proposal meets the provisions of Paragraph 57 of the Framework and that this factor could carry some weight in support of the proposal, I have no mechanism by which to consider the matter further.
14. I have before me, a detailed account of the handling of the application by the Local Planning Authority about which the appellant has raised concerns. However, their administration of the application has no bearing on the appeal proposal before me. I have considered the appeal resulting from the refusal of planning permission and based solely on the planning merits of the case relating to the evidence before me.

### **Conclusion**

15. For the reasons given above, I conclude that the appeal should be dismissed.

*KL Robbie*

INSPECTOR