



Appeal Decision

Site visit made on 24 January 2023

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 30th January 2023

Appeal Ref: APP/Z1775/D/22/3303214

46 Drayton Lane, Portsmouth PO6 1HG

- 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 Mark Wright against the decision of Portsmouth City Council.
 - The application Ref 22/00088/PLAREG, dated 25 January 2022, was refused by notice dated 15 June 2022.
 - The development proposed is construction of recessed balcony at second floor level.
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Decision

1. The appeal is allowed and planning permission is granted for construction of recessed balcony at second floor level at 46 Drayton Lane, Portsmouth PO6 1HG in accordance with the terms of the application, Ref 22/00088/PLAREG, dated 25 January 2022.

Preliminary Matters

2. The development has taken place which allowed me to visit the balcony and view its effects. I have deleted the term “retrospective application” from the description in the heading and formal decision as this is not an act of development.

Main Issue

3. The main issue is the effect on the living conditions of the occupiers of the adjoining properties in terms of overlooking.

Reasons

4. Drayton Lane is built on a gradient meaning that the properties are sited at different levels facing the highway. No 46 is a detached dwelling with accommodation on three floors, the top floor being within the roofspace. The southern elevation has a ‘half-hip’ and, prior to the development the subject of this appeal taking place, there was a window located immediately under the eaves and a rooflight in the section of roof above.
5. The development has removed these windows and created a balcony set into what was previously part of the skelings¹ at the edge, accessed from a bedroom at second floor level. A solid balustrade has been created out of the wall.
6. To the immediate south the landform slopes down quite steeply although it then starts to flatten out. The next property, No 44, is a bungalow with rooms

¹ A straight sloped part of a ceiling, such as on the underside of a pitched roof.

in the roof. There is a window in its northern elevation at first floor level, but due to the level changes this is at approximately the ground floor level of the appeal property. There is a conservatory on the rear of No 44 with the rear garden laid to grass. The gardens of the properties beyond are also laid to grass.

7. Standing on the balcony and looking over the balustrade there are ready views down into the adjoining gardens of these properties resulting in overlooking. There is also the ability to look into the room inside No 44. The Council's predominant concern is that this overlooking has increased from that which previously existed from the window. It also asserts that the previous window was at a high level, but the submitted drawings indicate that the cill was at less than 1m above floor level and, having been in the room behind this, there does not appear to have been any changes in floor level.
8. Having been to the balcony, I consider that users are unlikely to stand in this area any more than they would have with the previous window configuration so as to look down into the adjoining gardens. Rather users are likely to look out over and above these gardens in long distance views towards Langstone Harbour and then to the Solent. Due to the solid balustrade anyone sitting in this area would be prevented from looking down into the adjoining gardens, or the end window of No 44.
9. I therefore consider that while there would be some overlooking the proposal would not increase it to a material extent beyond that which previously existed and there is no additional harmful effect on the living conditions of the occupiers of adjoining properties.
10. Consequently, the proposal would comply with Policy PCS23 of the Portsmouth Plan which seeks the protection of amenity for local occupiers.

Conditions

11. As the development has taken place, I can see no need for any planning conditions.

Conclusion

12. The development complies with the development plan taken as a whole and there are no material considerations which would indicate a different decision. For the reasons given above I conclude that the appeal should be allowed.

RJ Jackson

INSPECTOR