



Appeal Decision

Site visit made on 31 January 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2023

Appeal Ref: APP/E2734/W/22/3310511

**62 Wimborne, Apartment 2, Kent Road, Harrogate, North Yorkshire
HG1 2NL**

- 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 Graham Burgess against the decision of Harrogate Borough Council.
 - The application Ref 22/02718/FUL, dated 8 July 2022, was refused by notice dated 4 October 2022.
 - The development proposed is patio with a pergola in garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the application form contains some arguments in support of the proposal. These are not acts of development in themselves and I have therefore removed them from the banner heading above. Nevertheless, I have taken the points raised into account in my reasoning below.
3. The patio and pergola have been constructed and therefore I am considering this appeal retrospectively.

Main Issue

4. The main issue is the effect of the development on the living conditions of the occupiers of The Cottage, with regard to outlook and privacy and the occupiers of 64 Kent Road, with regard to privacy.

Reasons

5. The appeal site is an area of land opposite a detached flatted property known as Wimborne, separated by a shared driveway which also serves the detached property known as The Cottage. Adjacent to the site on the other side is the driveway for 64 Kent Road which is a large, detached dwelling. The appeal development is located within a triangular parcel of land generally comprising soft landscaping. Another patio and pergola development is located close by, and near to the junction with the main road.
6. The appeal scheme consists of hard landscaping, in the form of a raised patio area and an open sided timber pergola which is a modest structure. It is located in the narrowest part of the triangular area of land, nearest to The Cottage.

7. The appeal scheme was part of a planting scheme for the previously overgrown section of the parcel of land. Even so, and despite its generally open appearance, the development has hard edges and is in an unconventional location within a narrow strip of land separated from the main house by a driveway. It is in close proximity to the front windows of The Cottage and in an elevated position, owing to the difference in ground levels.
8. While patios and pergolas are common features of domestic curtilages, in this context the development appears unduly prominent when viewed from the ground floor and first floor windows of The Cottage, limiting the outlook that could reasonably be expected. Even if the scheme had been discussed with neighbours prior to it being started, the development has a significantly greater visual effect on outlook than the previously open aspect experienced by the occupiers of The Cottage, resulting in an unacceptable effect on their living conditions.
9. The appeal scheme affords elevated views from the patio at close range into the ground floor living room of The Cottage, to the detriment of the privacy of these occupiers. There are also close-range views into the first-floor bedroom windows of this property. The Appellant has suggested that the appeal site could be used as an informal seating area without the need for planning permission, which would afford similar views into The Cottage. However, it is likely that a formal seating area such as the development will be used more regularly than an informal area. While it may be that the use of the development will vary seasonally, this does not prevent it being harmful to the living conditions of the occupiers of The Cottage.
10. I note that planting on the boundary of the development has taken place to create a privacy screen, and some form of vegetative planting would both screen and soften the development. However, owing to the sloping nature of the topography in the locality, a sufficiently high boundary screen would be needed. When viewed from The Cottage in close proximity I cannot be certain that this would not result in a more oppressive outlook to the occupiers of this property. As such, the concerns identified above could not be rectified by the imposition of a condition. Similarly, the appellant has indicated that seating has been arranged to make the most of the sun by facing south and therefore away from The Cottage. While this may prevent overlooking, a condition to restrict the use of the development in this manner would not be enforceable.
11. For the reasons given, the appeal scheme is harmful to the living conditions of the occupiers of The Cottage, with regard to outlook and privacy, in conflict with Policy HP4 of the Harrogate District Local Plan 2014 – 2035 (2020), which requires development to be designed to ensure it will not result in significant adverse impacts on the amenity of neighbours.
12. While there are views from the development into the nearest ground floor side windows at 64 Kent Road, a condition could be imposed were the appeal to be allowed to secure details of a suitable screen along the nearest boundary to mitigate this. Given the generally uniform ground levels between the appeal scheme and No 64, a screening of an acceptable height could be erected that would maintain outlook and privacy for the occupiers of this property. Accordingly, I do not find that the development is harmful to the living conditions of the occupiers of 64 Kent Road, with regard to privacy, and accords with Policy H4 in this respect.

Other Matters

13. The appeal site falls within the Harrogate Conservation Area (HCA). The Council does not have any concerns regarding the impact of the development on the significance of this designated heritage asset. Having considered the development and visited the site, I concur with that view and find that the appeal scheme preserves the significance of the HCA.

Conclusion

14. While the appeal scheme is not detrimental to the living conditions of the occupiers of 64 Kent Road, with regard to privacy, my above findings, relating to the living conditions of the occupiers of The Cottage, with regard to outlook and privacy, bring the development into conflict with the development plan, read as a whole. There are no material considerations that have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

F Harrison

INSPECTOR