



Appeal Decision

Site visit made on 17 March 2023

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th April 2023

Appeal Ref: APP/N2739/D/22/3313174

1A West End, Ulleskelf, TADCASTER, LS24 9DL

- 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 Kristian Best against the decision of Selby District Council.
 - The application Ref 2022/0938/HPA, dated 29 November 2021, was refused by notice dated 26 September 2022.
 - The development proposed is described as the replacement of existing A-frame tiled roof with a reinforced flat roof which is strong enough to have a small seating area and plants/vegetable boxes and conifers for privacy, installation of a staircase (using same decking and balustrade as the roof along with the structure), installation of decking on the roof with a balustrade around the roof for safety, block up a side door and replace garage door with the same size UPVC patio door.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposed development on the living conditions of the occupiers of No 1 West End by way of privacy.

Reasons

3. The appeal property (No 1A) is a semi-detached house, situated on the northern side of West End, which is a residential cul-de-sac on the north-western edge of the village of Ulleskelf. No 1A has a two-storey side extension with, on the ground floor, a passageway through to the rear of the property. At the rear of Nos 1 and 1A is a joint rear extension with a pitched roof. No 1A also has a large outbuilding to the rear which has an iron staircase leading onto a flat roof with a 1 metre high safety balustrade around it, such that the proposed scheme has the nature of a retrospective application.
4. Saved Policy ENV1 of the Council's Local Plan (LP) indicates that proposals for development will be permitted provided a good quality of development would be achieved. In considering proposals the Council will take account of, amongst other things, the effect upon the amenity of adjoining occupiers.
5. The Council contends that the scheme, due to its siting and proximity to No 1 West End would reduce the living conditions for the occupants of that property unacceptably due to a loss of privacy caused by overlooking of the rear of the dwelling and its whole garden area. The proposal would therefore fail to preserve the amenity of adjoining occupiers.

6. The appellant contends that using an existing building is the most environmentally friendly way to add a seating area into the back garden, in that other options would involve digging up grass and replacing it with a patio or cutting down 3 plum trees and putting it behind the garage. These would both have had a negative impact on the environment. In addition, other locations in the rear garden area could potentially be in danger of flooding. Finally, a brick extension, currently under construction to the rear of No 1, will reduce sunlight into the back garden of the appeal property, necessitating an alternative location for a seating area.
7. Both Nos 1 and 1A appear to have been extended relatively recently. There is a joint rear kitchen extension with a pitched roof. In addition, No 1 has a further rear extension, which is apparently at present an unfinished garden room. This projects beyond the existing kitchen extension, and there is a patio area beyond this with a 1.8 metre fence alongside, on the boundary with the appeal property. No 1A has large outbuilding, formerly a garage, at the rear of the house, which runs along the side boundary with No 2. This building has what is effectively a 'roof terrace' above with 1 metre high iron railings around, and accessed via an iron staircase. This is the subject of the current appeal.
8. The 'roof terrace' has railings around all four sides, but the eastern side, facing No 1, also has a slatted fence attached giving a degree of privacy. However, there are clear views over the railings into the windows in the rear elevation of No 1, and also into the garden room area at the rear of the dwelling. It also has clear views into and over the patio beyond the unfinished garden room. In addition, from the 'roof terrace' there are views into and over the rear garden at No 2, though the distance to the more private areas immediately outside the rear elevation of that house is significantly greater than to those at No 1.
9. Given the proximity of the roof terrace to the windows in the rear elevation of No 1, and the uninterrupted views into the garden room and patio at No 1, I consider the situation to be harmful to the living conditions of the occupiers of No 1 by way of loss of privacy. There is also some loss of privacy to the occupiers of No 2, but this is relatively minor.
10. I have some sympathy with the situation of the appellant, in that the rear garden room extension at No 1 does create something of a sense of enclosure to the small flat area of rear garden at the appeal property, before the garden then drops significantly down to the rear boundary, thus making creation of an alternative seating area here more complicated. However, this situation does not justify the creation of a 'roof terrace' having significant views into and over the neighbouring properties, with associated issues of loss of privacy.
11. In conclusion, I find that the development at No 1A is harmful to the living conditions of the occupiers of No 1 West End by way of loss of privacy, and that it therefore conflicts with Policy ENV1 of the LP. Accordingly, I dismiss the appeal.

J D Westbrook

INSPECTOR