



Appeal Decision

Site visit made on 30 May 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/N1160/D/23/3319048

231 Embankment Road, Plymouth PL4 9JH

- 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 M Anderson against the decision of Plymouth City Council.
 - The application Ref: 22/02053/FUL dated 14 December 2022, was refused by notice dated 2 February 2023.
 - The development is retention of walkway and terrace above garage with green netting applied to the fencing.
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Decision

1. The appeal is allowed and planning permission is granted for walkway and terrace above garage with green netting applied to the fencing at 231 Embankment Road, Plymouth PL4 9JH in accordance with the terms of the application, 22/02053/FUL dated 14 December 2022 and the plans numbered 22.24 PL.01 and 22.24 PL.02, subject to the following condition:
 - 1) The perimeter of the terrace shall be retained and maintained in accordance with the details shown on Plan 22.24 PL.01.

Preliminary Matters

2. The application forms confirmed that the works had been completed prior to the submission of the application. I shall therefore consider this appeal as one made for retrospective planning permission for development as originally carried out, namely for walkway and terrace above garage with green netting applied to the fencing.

Main Issues

3. The main issues in this appeal are:
 - a) The effect of the development on the street scene and
 - b) The effect of the development on the living conditions of neighbours, including at Nos 229 and 233 Embankment Road, with particular regard to loss of outlook and overlooking and loss of privacy.

Reasons

Issue a) Street scene

4. The appeal property is a terraced property fronting Embankment Road, with vehicular access at the rear via Stanley Place. Because of the slope of the land the ground floor accommodation is raised at the rear with steps leading down to the rear garden spaces and street level. At the rear, there is a garage across the width of the site, on top of which is the terrace with fencing and green netting. There is a walkway across from the rear door at the side of the property closest to No 233, which also includes for steps leading down to the garage.
5. The rear service road provides rear access to the properties in the terrace, some of which have rear gardens or yards, and some have used the rear space for parking and garages. There are also garages opposite the site with vacant land beyond. Although the fence and green netting is visible from the rear service yard, primarily because of its height, it does not detract from the varied street scene at the rear which comprises a variety of treatments to the individual properties and a variety of structures and boundary treatments. The terrace is not seen in the wider street scene from the front of the property.
6. I am therefore satisfied that the existing terrace and fencing as erected does not materially harm the street scene. There is no conflict with Policy DEV20 of the Plymouth and South West Devon Joint Local Plan (Local Plan), Paragraph 13.6 of the JLP SPD and the National Planning Policy Framework (Framework), and in particular Section 12, all of which seek a high quality of design which respects the local context.

Issue b) Living Conditions

7. The terrace is surrounded by a fence and netting to ensure that there is no opportunity for overlooking and loss of privacy for the neighbours when using this rear space. There is some limited overlooking of the rear yard of the neighbours at No 233, but this is primarily from the rear access and steps from the property which has not been altered. The works undertaken do not in my view materially affect this position. Furthermore, and contrary to the concerns expressed by the Council, I see no reason why a person would be any more likely to sit on the walkway rather than the existing steps, particularly with the terrace in place. Similarly, the potential for limited overlooking of windows at a higher level at the rear of adjacent properties is not dissimilar to that which could have already be gained from the rear service yard.
8. In terms of outlook from windows at the rear of the neighbouring properties, the terrace and surrounds do not directly abut the appeal property. Given the limited height and remaining outlook available, I do not consider that the outlook from neighbouring windows or rear garden areas is materially harmed.
9. I agree with the Council that as the terrace is over part of the rear garden space, matters relating to noise and disturbance are unlikely to be materially different to the use of the rear courtyard, were it to remain as private open space.
10. I am therefore satisfied that there is no material harm to the living conditions of neighbouring residents, with particular regard to overlooking and loss of privacy and outlook. There is no conflict with Policy DEV1 of the Local Plan,

paragraphs 13.22, 13.23 and 13.26 of the JLP SPD as well as the Framework and with particular reference to Paragraph 130, all of which amongst other matters seek to protect the amenities of existing and future occupiers.

Conditions

11. In terms of conditions, and as the development has already been completed, I have referenced the plans in the main part of the decision. I have also imposed a condition to require the retention and maintenance of the fencing and netting in accordance with the approved plans both to protect the street scene as well as the amenities of neighbouring residents.

Conclusion

12. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be allowed.

L J Evans

INSPECTOR