



Appeal Decision

Site visit made on 27 November 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/J4525/D/23/3329522

40 Park Avenue, Roker, Sunderland SR6 9DJ

- 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 Miss Karen Tansey against the decision of Sunderland City Council.
 - The application Ref 23/0180/FUL, dated 19 May 2023, was refused by notice dated 14 July 2023.
 - The development proposed is platform from rear of property (leading from existing bi-folding doors) for disability use and safety compliance, inclusion of privacy screens and steps down to existing landscaped garden.
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Decision

1. The appeal is allowed and planning permission is granted for platform from rear of property (leading from existing bi-folding doors) for disability use and safety compliance, inclusion of privacy screens and steps down to existing landscaped garden at 40 Park Avenue, Roker, Sunderland SR6 9DJ in accordance with the terms of the application, Ref 23/0180/FUL, dated 19 May 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan Existing PTD.204.005 Rev B; Site Plan Proposed PTD.204.001 Rev B and Elevations Proposed PTD.204.003 Rev B.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Preliminary Matter

2. The Council has confirmed there is an error in the officer report regarding the height of the proposed privacy screen at the shared boundary with 38 Park Avenue. However, the submitted plans clearly show the proposed height of the screen, and I have assessed the appeal scheme on this basis. The Council indicate that a recently constructed taller boundary treatment at the shared boundary with No 42 may require planning permission. However, this does not form part of the proposal before me, and I have considered the appeal on the basis of the scheme and the plans which were before the Council when it made its decision.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers to the side and rear, with regard to privacy.

Reasons

4. The proposed development would replace the existing timber steps with a modestly sized platform area. It would be set in from the shared boundary with 38 Park Avenue and obscure glazed screening is proposed at this boundary. I acknowledge that the proposal would more readily allow occupiers to walk outside the property, however, given the depth of the current timber steps this is already possible, as is standing at the shared boundary and looking over into the garden of No 38. Moreover, I am satisfied that the height and limited visual permeability of the screening of the development would prevent issues of overlooking and reduced privacy for these occupiers. Despite the proposed platform being in an elevated position relative to the neighbouring garden, the height of the proposed screening would ensure there would not be intrusive views from vantage points along the platform.
5. The neighbouring property on the other side of the appeal site at No 42 is located in a spacious triangular corner plot and the proposed platform is on the side of the appeal property furthest away from No 42. Even though the platform would occupy an elevated position, the distance between the proposed platform and the garden and rear facing windows of No 42 would ensure that the occupiers' privacy would be protected. The tall boundary treatment between these properties, even without the additional height that has recently been added, would also help to mitigate the effects of the proposal. For the same reasons, the living conditions of the occupiers of No 44, further away from the appeal property, would also not be unacceptably harmed.
6. The appeal property has a steeply sloping, relatively long garden to the rear. Beyond this are the rear gardens and properties of Westcliffe Road which sit at a much lower ground level to the properties on Park Avenue. Despite the height difference and the proposal bringing development closer to the gardens and properties at the rear of the site on Westcliffe Road, the proposal would, nevertheless, be at some distance from both their gardens and rear facing windows. Therefore, it is unlikely that any views from the platform to the rear of the site would be so significant as to result in a loss of privacy to the occupiers of these properties that would affect their quality of life. Particularly given that owing to the topography of the locality, a degree of overlooking is almost inevitable.
7. I note concerns raised by a neighbour at the rear of the appeal site that the proposal would affect theirs and their young children's ability to go about their day without the feeling of being overlooked in their home and garden. As such, there could be interference with their Human Rights¹. In reaching my decision I have kept these interests at the forefront of my mind, noting that these are qualified rights and therefore, the concept of proportionality is key.
8. However, I have found that the proposed development would not result in the neighbouring property at the rear on Westcliffe Road being overlooked so that the occupiers would suffer unacceptable harm to their living conditions. I am

¹ As set out in Article 8 of the Human Rights Act 1998 which requires that decisions ensure respect for private and family life and the home.

therefore satisfied that a grant of planning permission would not unacceptably interfere with their right to a private and family life and home. It is, as such, proportionate in the circumstances to allow the appeal.

9. Children also share a protected characteristic covered by the Public Sector Equality Duty². However, for the same reasons, I am satisfied that this group would not be unduly disadvantaged.
10. Accordingly, the proposal would not cause unacceptable harm to the living conditions of the occupiers of neighbouring properties to the side and rear, with regard to privacy. The development accords with Policy BH1 of the Core Strategy and Development Plan 2015-2033 (2020) which requires development to achieve high quality design that retains acceptable levels of privacy and a good standard of amenity for existing occupiers.
11. The proposal would be in line with the provisions of the National Planning Policy Framework which seeks development that creates a high standard of amenity for existing users. It would also be in line with the guidance regarding raised platforms set out in the Development Management Supplementary Planning Document (2021).

Other Matters

12. The proposed privacy screening at the shared boundary with No 38 would not project above the existing boundary treatment so significantly that it would appear as a dominant or oppressive feature or cause a detrimental loss of light to this property or garden. I note that owing to the elevated position, any noise from those using the platform may readily project above boundary treatments in the area. Nevertheless, in the absence of any firm evidence to the contrary, I do not consider that the use of the platform would be any different to that of a garden and would not lead to such a significant increase in sound levels as to be detrimental to the living conditions of neighbouring occupiers.
13. The Council has not found the proposal to be harmful to the character and appearance of the area. Having considered the proposal and visited the site, I concur with that view and find that the appeal proposal would not detract from the qualities of the wider locality.
14. The appellant indicates that the proposal is required to allow wheelchair access for a relative and because the existing steps are unsafe. I note that neighbouring occupiers have queried the need for such access as there is not level access at the front of the property. Nevertheless, the appeal scheme must be considered on its own planning merits. As I have concluded that the proposal would not cause unacceptable harm for the reasons set out above, I have not found it necessary to consider this matter further.

Conditions

15. In addition to the standard condition that limits the commencement of the planning permission it is necessary to impose a condition identifying the approved plans for clarity. A condition relating to materials is also necessary, in the interest of protecting the character and appearance of the area.

². As set out in the Equality Act 2010 which has three aims, including removing or minimising disadvantages that may be suffered by this group.

Conclusion

16. For the reasons given above, I conclude that the proposal accords with the development plan. Material considerations have not been shown to carry sufficient weight as to indicate a decision otherwise than in accordance with it. Therefore, the appeal is allowed.

F Harrison

INSPECTOR