



Appeal Decision

Site visit made on 7 March 2024

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th April 2024

Appeal Ref: APP/U2750/D/24/3337394

20 Osborne Gardens, Harrogate, North Yorkshire HG1 2EE

- 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 J Winchester against the decision of North Yorkshire Council
 - The application Ref: ZC23/03878/FUL dated 23 October 2023, was refused by notice dated 11 December 2023.
 - The development proposed is described as erection of raised terrace to rear garden.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of raised terrace to rear garden at 20 Osborne Gardens, Harrogate, North Yorkshire HG1 2EE in accordance with the terms of the application, Ref: ZC23/03878/FUL dated 23 October 2023, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No's: 23/1531/02 and 23/1531/01 A.
 - 3) The materials to be used in the construction of the brickwork of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the living conditions of the occupiers of No. 18 Osborne Gardens.

Reasons

3. The site is a detached two storey property within a predominantly residential area. There is a boundary fence separating the rear gardens of the appeal site and No. 18 Osbourne Gardens which follows the fall of the land from the rear of the properties towards the rear boundary of the gardens.
4. My attention has been drawn by both parties to a previous planning permission¹ for a single storey extension to the rear of the property. The approval included steps spanning the width of the extension with the first step

¹ 21/03201/FUL

1m deep and at a similar level to the proposed development before me. I observed during my site visit that the extension minus the steps is constructed.

5. It is clear from the evidence before me and as observed during my site visit that overlooking towards the private rear amenity space of No. 18 occurs from inside the newly constructed extension via the large windows covering much of the rear elevation.
6. The proposed development would allow overlooking to occur from the outside. The steps approved are approximately 300mm in depth shorter (except for the area where the steps are proposed to be located) than the proposed raised terrace. On this basis it is difficult to rationalise how the proposed development would exacerbate the existing overlooking or the overlooking which could occur if the steps were installed as per the approved planning permission.
7. The inclusion of a balustrade and the slight increase in depth of the raised area would not intensify the potential use nor the level of overlooking towards No. 18.
8. I conclude that the proposed development would not harm the living conditions of the occupiers of neighbouring properties. There is no conflict with Policy HP4 of the Harrogate District Local Plan 2014-2035 (2020) which seeks to protect the amenities of occupiers of neighbouring properties.

Conclusion and Conditions

9. For the above reasons I conclude that this appeal should be allowed.
10. I have imposed conditions relating to the standard time limit for commencement of development and plans to be adhered to as this provides certainty. I have also added a condition concerning materials to ensure a satisfactory appearance.

C Pipe

INSPECTOR