

Appeal Decision

Site visit made on 9 November 2016

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 November 2016

Appeal Ref: APP/N4720/D/16/3158954
51 The Birches, Bramhope, Leeds LS16 9DP

- 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 Thomas Burton against the decision of Leeds City Council.
 - The application Ref 16/02830/FU was refused by notice dated 28 June 2016.
 - The development proposed is described as the erection of a combined wall and fence to a height to match the existing boundary hedge. To maintain a level top of fence this will be 2.4m next to the house increasing to 2.6m as the garden falls away. Timber decking to rear of extension (permitted development 15/06506/DHH) 4.8m x 4.3m in area. Height above ground varies from 150mm to 800mm. To tie into extension threshold and existing levels at garage entrance the above fence provides 1.8m privacy screening matching the height of the existing boundary hedge.
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Decision

1. The appeal is dismissed.

Procedural matters

2. At the site visit, I viewed the site from 49 The Birches with the consent of the occupier of this adjacent residential property and did so unaccompanied.
3. The proposal is partly complete in that the external deck and supporting wall have been erected at the back of the appeal dwelling. These elements of the appeal scheme appear to be broadly in accordance with the plans.

Main issue

4. On the completed appeal form, the appellant has ticked the box indicating that the site falls within the Green Belt. However, there is nothing in the evidence before me to confirm that it does so and the Officer's report makes no obvious reference to the Green Belt. Therefore, I follow the Council and consider the main issue to be the effect of the proposal on the living conditions of the occupiers of 49 The Birches with regard to outlook, visual impact and privacy.

Reasons

5. The appeal property is a mainly 2-storey semi-detached house that has been extended and externally altered at the rear. Due to the notable difference in ground levels, the main house occupies an elevated position in relation to the rear garden, as does the external timber deck at the back of the main dwelling.
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6. The new deck provides sufficient space for people to gather and sit out. To overcome overlooking problems from it towards the rear of 49 The Birches, a timber fence above a low level wall is proposed along part of the shared rear boundary with this adjacent property. The new wall and fence would have a combined height of between 2.4 and 2.6 metres above ground level and project outwards from the main house by about 4.8 metres.
7. A tall hedgerow currently marks the rear boundary between Nos 49 and 51, which would be retained or replanted to a similar height if the fence were to be erected, as proposed. That hedgerow would partly screen and visually soften the new wall and fence in views from the rear windows of No 49 and its back garden. However, soft landscaping cannot be relied upon in this way because it can be cut back or removed at any time. Furthermore, the effectiveness of the hedgerow as a screen would be limited especially in winter due to leaf fall.
8. Having viewed the site from the rear of No 49, I am in little doubt that without the intervening hedgerow there would be clear views of the new wall and fence at close range especially from the back garden nearest to the house. Due to its considerable scale, height and length, I consider that the new wall and fence would overly dominate outlook and overbear on the occupiers of No 49.
9. In reaching this conclusion, I acknowledge that the existing hedgerow is similar in height to, and longer than, the proposed fence. However, vegetation is visually softer in its appearance than a solid wall and fence and thus easier on the eye. The height of the proposed fence could be reduced that in turn would diminish its visual impact. However, a lower fence would provide a less effective screen along this boundary because some people stood on the new deck would be able to see over it towards the rear of No 49.
10. Without the new fence and wall, the finished deck would offer some views from an elevated position towards the back garden of No 49 even with the existing hedgerow in place. The depth of the decked area would also allow some views back towards the rear ground floor windows of this attached property. The additional overlooking possible from the new deck, as the occupiers of No 49 would experience it, would be significant.
11. On the main issue, I therefore conclude that the proposal would unacceptably harm the living conditions of the occupiers of No 49. Accordingly, it conflicts with Policy GP5 of the Leeds Unitary Development Plan Review, which seeks to ensure that development proposals resolve detailed planning considerations with particular regard to amenity. It would also be at odds with Policy HDG2 of the Council's Householder Design Guide, which states that all development proposals should protect the amenity of neighbours. It would also fail to adhere to a core principle of the National Planning Policy Framework, which is to secure a good standard of amenity for all occupiers of land and buildings.
12. The enhanced living conditions for the appellant that result from the use of the deck do not outweigh the significant harm that I have identified.
13. For the reasons set out above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR