

Appeal Decision

Site visit made on 21 February 2017

by Mr C J Tivey BSc (Hons) BPI MRTPI

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

Decision date: 28 February 2017

Appeal Ref: APP/N0410/D/16/3165914

131 Cherry Tree Road, Beaconsfield, Buckinghamshire HP9 1BD

- 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 Deep Parthipan against the decision of South Bucks District Council.
 - The application Ref 16/01403/FUL, dated 13 May 2016, was refused by notice dated 21 October 2016.
 - The development proposed is for re-levelling of garden and construction of retaining wall and planters.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. At the time of my site visit a retaining wall had already been constructed along the northern and eastern boundaries of the appeal site and the garden largely re-levelled up to it. I noted that the retaining wall extends further in a westerly direction than as identified on the drawing CTR/P3/103, with it extending approximately halfway along the depth of the rear garden serving the host dwelling. In addition, the description of proposed works set out within both the application form and the Council's decision notice refers to the proposal being a retrospective application, this is a matter of fact, but does little to describe the nature of the works carried out and therefore I have omitted it from the description in the banner heading above. I have determined the appeal on this basis.

Main Issues

3. The main issues in this case are: the effect of the appeal proposal on the character and appearance of the area, and upon the living conditions of the occupants of 129 Cherry Tree Road, with specific reference to privacy.

Reasons

Character and Appearance

4. As highlighted above, a sleeper wall has been constructed from approximately halfway down the garden along the northern boundary shared with 129 Cherry Tree Road, in order to retain filled ground to level the rear garden. No 129's garden slopes increasingly down towards its rear from its patio such that it is at a considerably lower level than the appeal site.

5. Notwithstanding what is illustrated on the submitted drawings of the retaining wall as constructed, in reality it is very crude in appearance, with an irregular alignment, randomly placed posts and with steel girders protruding above. Combined with the overall height of the garden as raised on the boundary, I consider that the proposal is obtrusive upon the outlook from No 129 and constitutes an alien feature in the rear garden scene, regardless of the fact that the work had been done by the appellant to increase the visual amenity of their own garden.
6. Further, whilst it may be that the height of the retaining wall is not much higher at the highest end than that of a typical boundary fence, this proposal is inherently different as it involves land-raising. This proposal also requires additional boundary treatment on top of this, such as the conifer trees on the boundary line, which further accentuates the overbearing nature of the proposal upon the neighbouring rear garden.
7. Consequently I find that the proposal has a harmful effect upon the character and appearance of the area and in this respect fails to comply with Policy EP3 of the South Bucks District Local Plan (adopted March 1999) (LP) and Policy CP8 of the South Bucks District Core Strategy (adopted February 2011) (CS) which only permit development where its scale, layout, siting, height, design and external materials are compatible with the character and amenities of the site itself, adjoining development and the locality in general.

Living Conditions

8. Whilst I was not in the position to inspect the site prior to the commencement of works, it is quite clear that the natural change in ground levels does give rise to a degree of mutual overlooking between the rear gardens of dwellings within the street. By virtue of the current absence of boundary treatment for the majority of the extent of the retaining, overlooking into the rear garden of No 129 occurs, although this is largely towards its end.
9. I note that it is proposed to re-plant new trees along this boundary which would significantly reduce overlooking and, therefore, loss of privacy to the occupants of No 129. I also accept that the raised area does not interfere with the light enjoyed from the house at No 129, although more overshadowing of its garden would be caused.
10. However, as conditions could be imposed to secure details of screening, on this matter I conclude that the proposal would protect the living conditions of the occupants of 129 Cherry Tree Road from overlooking, although this does not outweigh the harm that I have identified resulting from the proposal upon the visual amenities of the area.

Conclusion

11. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal be dismissed.

C J Tivey

INSPECTOR