

Appeal Decision

Site visit made on 19 September 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 28 September 2017

Appeal Ref: APP/J4525/D/17/3180897

27 Seaforth Road, Sunderland SR3 1UP

- 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 Graeme Mersh against the decision of Sunderland City Council.
 - The application Ref 17/00562/FUL, dated 17 March 2017, was refused by notice dated 7 June 2017.
 - The development proposed is the erection of a timber boundary fence and raise garden level.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of my visit to the site, the ground level of the garden at No. 27 had been raised and a level patio and lawn contiguous with the ground floor level of the dwelling had been created. However, it was evident that the proposal had not yet been fully implemented and although the proposed fence shown on drawing S240 ('Proposed Boundary Elevation') had been erected, the 'Proposed Rear Fence Elevation' shown on drawing S240B had not. I note that the plans considered by the Council were revised during the course of the application so, for the avoidance of doubt, I have determined the appeal on the basis of the plans considered by the Council.

Main Issue

3. The main issue is the effect of the development on the living conditions of occupiers of neighbouring properties, with particular regard to privacy and outlook.

Reasons

4. Saved policy B2 of the City of Sunderland Adopted Unitary Development Plan (UDP) states that the scale, massing, layout or setting of new developments should, amongst other things, retain acceptable levels of privacy. Although now of some age, I find this to be broadly consistent with the National Planning Policy Framework (the Framework) which, as one of its core planning principles, states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
5. Seaforth Road is a sloping street. Each pair of dwellings, and indeed each dwelling with the pair, is stepped to follow the prevailing gradient. From the photographic evidence available, it seems to me that the garden at the appeal

site was, prior to the works subject to this appeal, set over at least two distinct terraced levels. Lower than the rear garden at 25 Seaforth Road to the northwest, the terraced levels within the appeal stepped down towards the rear and eastern sides of the garden, and boundaries with 7 Hatfield Gardens and 29 Seaforth Road, respectively.

6. Despite the differences in levels within, and beyond, the appeal site, it seems to me from the photographic evidence submitted by the appellant and objectors, that the fences around the gardens ensured, at least from garden level, adequate privacy to and between the outdoor areas of Nos. 27 and 29, and No. 7. I accept that the garden level of No. 25 affords a significant degree of outlook over the rears of Nos. 27 and 29, and No. 7, but the current proposal does not materially alter that relationship. I acknowledge too that, due to the relative floor levels of the dwellings and their positioning in relation to each other, there was, and indeed still is, a significant degree of inter-visibility between properties.
7. However, in the context of No 29. and No. 7, the increase in height of the garden level at the appeal site is both noticeable and significant. The plans indicate that the garden level has, at most, been increased by up to approximately 600mm. Neighbours suggest that that difference occurs towards the rear corner of the appeal site, where the boundaries between Nos. 27, 29 and 7 intersect. From my observations of the site that seems to me to be a reasonable description. However, it is also broadly agreed that the previous garden level at No. 27 was higher than that at both No. 29 and No. 7. The neighbour at No. 29 suggests that the garden level would, as a consequence, be up to 850mm higher than levels at No. 29. Again, from my observations, that seems to me to be a reasonable assessment.
8. As a consequence, garden levels at the appeal site would be significantly higher than those of either No. 29 or No. 7. Although the proposed rear fence elevation shows that the height of the fence would be increased by 600mm in height along the rear boundary with No. 7, I do not consider that this would be sufficient, due to the raised garden level at the appeal site, to offset the additional scope for overlooking and loss of privacy that the elevated and prominent garden would create. The elevated garden level would therefore result in additional, direct and harmful overlooking of, and loss of privacy to, the rear garden of 7 Hatfield Gardens.
9. With regard to No. 29, I am satisfied that the fence between that property and the appeal property is accurately reflected on the submitted plans. That being the case, I saw that the fence offers little in the way of providing screening or privacy to the rear garden of No. 29. Even in the section of the boundary immediately at the rear of the houses, the additional height of that panel does not offset the perception of overlooking that the elevated garden level has created. I accept that there are conifers that run parallel to the fence between the two properties that would, in time, provide screening that the fence does not. However, the presence of domestic paraphernalia and structures within the elevated garden level of the appeal site would serve as a constant reminder of the increased ground levels at No. 27. This would, in my judgement, result in both actual overlooking and loss of privacy to No. 29, and the perception of being overlooked.

10. Thus, the proposal would fail to retain acceptable levels of privacy for occupants of 7 Hatfield Gardens and 29 Seaforth Road in terms of their use and enjoyment of their private amenity space. I accept that there is a degree of inter-visibility between the rears of properties surrounding the appeal site, but the elevated garden levels, lack of sufficient screening measures and the relationship between the various properties is such that this proposal would cause material harm to the living conditions and amenities of occupants of those properties. As such the proposal would be in conflict with the aims of UDP policy B2 and at odds with one of the Framework's core planning principles that planning should always seek to secure a good standard of amenity for all existing and future occupiers of land and buildings.
11. The proposal would increase the height of the rear boundary fence along the entirety of the appeal site's boundary with 7 Hatfield Gardens to just over 2 metres in height. However, the rear garden area at No. 7 is generously proportioned with a south facing slope and a westerly aspect, whilst the house itself is offset and some distance from the boundary with the appeal site. For these reasons, I conclude that the proposal would be neither overbearing nor obtrusive upon the outlook from the rear of No. 7 or its garden.
12. Although higher than other fences in the immediate vicinity of the appeal site, I do not consider that a fence of such height would appear out of place. The prevailing slope along the rears of properties on this side of Seaforth Road and Hatfield Gardens already creates a stepped and disrupted fence line and I do not consider that the proposal would alter this to such an extent that it would be harmful to the character or appearance of the surrounding area. That is not, however, sufficient to outweigh the harm that I have identified above in respect of privacy.

Other Matters

13. As I find that the proposal would fail to retain acceptable levels of privacy for occupiers of 29 Seaforth Road and 7 Hatfield Gardens, the matter of setting a precedent through approval would not arise. I have not therefore considered this matter further, and have in any event considered the appeal on its own merits and on the basis of the evidence before me.

Conclusion

14. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR