



Appeal Decision

Site visit made on 28 August 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 8 October 2019

Appeal Ref: APP/X4725/D/19/3232494

4 Belgrave Avenue, Ossett WF5 0BQ

- 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 Mrs Julia Oldroyd against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 18/02267/FUL, dated 21 September 2018, was refused by notice dated 11 April 2019.
 - The development proposed is construction of a block retaining boundary wall, levelling and increasing the height of the garden area.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of my visit to the site, the block retaining wall had been partially constructed, the garden levels partially raised and the levelled area laid to lawn. The block wall petered out towards the north of the appeal site where ground levels fall away to the prevailing levels on land to the north. For the avoidance of doubt, my determination of the appeal is based on the drawings submitted and not on the works as partially constructed, although I acknowledge that what has been constructed thus far appears broadly in line with what is shown on the plans.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of occupiers of 16 The Green, with particular regard to privacy.

Reasons

4. The appeal property is part of a small, recently built, residential development of four dwellings accessed from the end of Belgrave Avenue which back onto existing residential properties with frontages facing Lime Street and The Green. The appeal property is situated in an elevated position above 16 The Green, the latter being a dormer bungalow located towards the rear of its plot and close to the rear corner of the appeal plot.
5. The retaining wall is set back from the timber fence that separates the appeal property from No. 16. In that gap, a laurel hedge extends along the majority of the length of the boundary between the appeal property and No. 16. It is, I am advised, to be maintained to a certain height by virtue of a planning

condition on a previous permission¹. It is however patchy in places, with its central portion providing the most dense, and therefore greatest degree of, screening. Towards the southern end of the boundary it becomes more patchy, whilst I saw that it was largely absent towards the northern side of the rear garden.

6. It is true that when stood at the rear southern corner of the levelled garden, it is possible to look down onto the terraced garden area at the side of No. 16. However, to do so would not in my judgement be a reasonable, realistic or particularly frequently occurring use of this area of the appeal site's rear garden area. In my judgement, additional interim screening in the manner suggested by the appellant to supplement the existing hedge in these locations could provide a bridge in terms of the effectiveness of screening from short- to medium- to longer term as the hedge develops in this area.
7. More problematic however is the relationship towards the northern corner of the site, between the garden area of No. 4 and the rear of No. 16. Here, the dwelling at No. 16 is at its closest to the appeal site and is where windows at the rear of that property are at their closest to the area which it is proposed to level and raise.
8. At the time of my visit to the site, ground levels in this area had not yet been raised to those of the southern portion of the rear garden. The laurel hedge, effective in its screening qualities at other sections of the boundary with No. 16, peters out under the canopy of the mature trees in this rear corner of the appeal site. Although the timber fence between the properties provides a reasonable degree of screening on the basis of the existing ground levels, it would be ineffective with regard to the proposed levels.
9. The plans indicate that the raised garden level would be built to a single level. At the retaining wall towards the northern corner of the site, this would be broadly level with the top of the existing timber fence between No. 4 and No. 16. Whilst there would not be any meaningful screening afforded by the existing fence and the absent laurel hedge in this area with the proposed ground levels, the canopy of the mature trees in this corner would come into play in terms of providing an element of screening. However, there would remain a significant and substantial gap between the top of the existing fence and the lower portion of the tree canopy, the latter of which could not be relied upon to provide meaningful screening year round, and which would significantly reduce privacy and result in the overlooking of the rear of No. 16.
10. Although the appellant has indicated that a temporary screen of artificial laurel hedge / trellis could be installed to supplement the laurel hedge, the submitted cross section plan does not clearly show its full alignment or length along the retaining wall, whilst its alignment is not shown on the layout plans. I accept that there are elements of the existing hedge, particularly its central portion, where supplementary screening would not be required. The cross section drawing also demonstrates that the temporary screen could be installed to a height equivalent to the existing hedge. However, the deficiencies in the context of the submitted plans are such that I cannot be certain that these measures would adequately or effectively provide sufficient screening and prevent there being a significant reduction in privacy for occupiers of No. 16.

¹ LPA Ref No: 11/01001/FUL

11. I accept that a degree of inter-visibility is inevitable in a residential area where houses are positioned close to each other. The elevated position of the ground floor of No. 6 and its raised patio already provide a degree of additional elevation above No. 16. However, such matters are not before me. Instead, the proposed ground raising towards the northern corner of the No. 4's rear garden area with the absence of existing meaningful screening and the uncertainty over the extent and effectiveness of proposed mitigation leads me to conclude that it has not been adequately demonstrated that the proposal would avoid a significant reduction in privacy for occupiers of the neighbouring property.
12. Policies D9 and D10 of the Wakefield Local Development Framework Development Policies Document (DPD) set out the Council's approach to new development and domestic residential proposals, extensions and alterations. In seeking to maintain or enhance the qualities of local communities and residential neighbourhoods, these policies seek, amongst other things, to avoid proposals that would significantly reduce the privacy of neighbouring properties. For the reasons I have set out it has not been adequately demonstrated that the proposal would not result in a significant reduction in privacy for occupiers of No. 16 and, as such, I conclude that the proposal would be in conflict with DPD policies D9 and D10.

Conclusion

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

Graeme Robbie

INSPECTOR