
Appeal Decision

Site visit made on 10 September 2019

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2019

Appeal Ref: APP/V4250/W/19/3228771

32 Orchard Lane, Leigh, Lancashire WN7 1NT

- 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 Peter Mannix against the decision of Wigan Metropolitan Borough Council.
 - The application Ref A/18/85981/CU, dated 16 August 2018, was refused by notice dated 2 May 2019.
 - The development proposed is boundary fencing to 32/34 Orchard Lane, Leigh.
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Decision

1. The appeal is allowed, and planning permission is granted for the proposed change of use of land to residential garden curtilage together with the erection of new boundary fence between 32 and 34 Orchard Leigh, Lancashire WN7 1NT, in accordance with the terms of the application, Ref A/18/85981/CU, dated 16 August 2018, 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 plans: 6508/01 and the Location Plan.

Procedural Matters

2. The appeal site is currently used as access to an alleyway to the rear of terraced properties and informal parking. Therefore, enclosing the land to form part of the residential curtilage of adjacent properties would constitute a change of use. The description of development on the Council's decision notice and the appellant's appeal form states the change of use of land to residential garden curtilage together with the erection of new boundary fence between 32 and 34 Orchard Lane. This is a more appropriate description and I have considered the appeal on this basis, since no party would be prejudiced or caused any injustice by me doing so.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area; and on access with regards to servicing of neighbouring properties.

Reasons

Character and Appearance

4. Orchard Lane is within a residential area, the prevailing character consisting of traditional two storey period terraced properties, with ground floor bay windows, brick facades, and slate roofs, and low level front walls. The form of the terraces is regularly interrupted by gaps created by the surrounding network of roads and alleyways.
5. The proposed development would enclose the gap in between Nos 32 and 34. A 2m high close boarded fence would be erected to enclose the gardens. To the front this would be set back from the street, behind the building line, approximately 5m from the footway to allow for off-street car parking. Given this set back the 2m fence would not be a prominent feature in the street scene, and therefore would not appear incongruous. To the front a 1m high fence would be erected to separate the proposed curtilage of each property. This would be of a similar height and in keeping with the existing low level walls along the street.
6. Whilst the fencing would enclose the gap restricting access, there would be no buildings, only garden and parking spaces. Furthermore, the layout of the fencing would respect the physical character of the area, by being set back it would maintain the appearance of space in between the properties and would not have a detrimental effect on the street scene.
7. I have considered the submissions in relation to the existing fencing in between Nos 10 and 18, which was granted planning permission by the Council. However, the layout of the proposed 2m high fencing does differ, in that it would be set further back behind the building line. Therefore, this does not affect my findings above.
8. Consequently, I conclude the proposed development would not adversely affect the character and appearance of the area and accords with Policies CP10 and CP17 of the Wigan Local Plan Core Strategy, and paragraph 127 of the National Planning Policy Framework which collectively seek to ensure new development respects the character and identity of the area.

Access and Servicing

9. I have considered the concerns raised by the Council and local resident in relation to access being restricted for the occupiers of 18 to 30 Orchard Lane for servicing and refuse collection, access to a substation, and the effect the additional walk would have on their living conditions. From the evidence provided the alleyway to the rear of these properties and the substation would be retained, and access would still be achieved from the entries adjacent to No 2 or No 48. Whilst this would increase the distance that some occupiers may need to traverse to access the rear of their properties, this would not be excessive. The length of the alley and distance would be similar to others in the area which serve other terraces. Furthermore, from the evidence provided the site appears to be owned by the appellant and does not appear to form part of the public highway. No evidence has been provided regards any other access rights.

10. I have considered the Council's concerns over promoting the use of Ledbury Street as an access point for pedestrians, because of the vehicle movements to the existing commercial unit. However, from the evidence before me Ledbury Street is adopted highway, and already in use by local residents. The carriageway is surfaced and there are footways either side, as well as street lighting, all which provide a good, safe access to the alleyways behind the terraced properties.
11. Whilst parts of the alleyway are covered in vegetation it is not overgrown to the degree that it is inaccessible, and it is useable. Furthermore, whilst the open nature of the site contributes to natural surveillance, the alleyway would still benefit from a degree of overlooking from rear first floor windows and it would be visible from Ledbury Street. Therefore, these matters do not affect my findings above.
12. Consequently, I conclude the proposed development would not have a harmful affect upon access and accords with Policies CP7, CP10 and CP17 of the Wigan Local Plan Core Strategy, and paragraph 109 of the National Planning Policy Framework which collectively seek to ensure development does not have a severe impact on highway safety, and that it is appropriately serviced, including making provision for waste storage and collection.

Conditions

13. The Council have not suggested planning conditions in the event of this appeal being allowed. However, I have considered the use of planning conditions following the guidance set out in the Planning Practice Guidance. In addition to the standard time limit condition, I have included a condition that specifies approved drawings to provide certainty.

Conclusion

14. For the reasons given above the appeal is allowed.

R Cooper

INSPECTOR