



Appeal Decision

Site visit made on 20 July 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2021

Appeal Ref: APP/A4710/W/21/3272406

9 Blake Hill, Shibden, Halifax, Calderdale HX3 7UN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Karen Hudson against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 20/01093/HSE, dated 17 September 2020, was approved on 14 January 2021 and planning permission was granted subject to conditions.
 - The development permitted is demolition of existing conservatory to facilitate single storey extension and alteration to existing patio and boundary wall (retrospective).
 - The condition in dispute is No 2 which states that: *Within three months of the date of this permission, details of a 1.8m high privacy screen [to replace the existing screen fence] to the west boundary of the raised patio shall be submitted to and approved in writing by the Local Planning Authority. The privacy screen shall then be installed in accordance with the approved details within the following three month time period and shall thereafter be retained.*
 - The reason given for the condition is: *In the interests of amenity and privacy and to ensure compliance with Policy BE2 of the Replacement Calderdale Unitary Development Plan.*
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Decision

1. The appeal is allowed and the planning permission Ref 20/01093/HSE for demolition of existing conservatory to facilitate single storey extension and alteration to existing patio and boundary wall (retrospective) at 9 Blake Hill, Shibden, Halifax, Calderdale HX3 7UN granted on 14 January 2021 by Calderdale Metropolitan Borough Council, is varied by deleting condition 2 and substituting for it the following condition:
 - 2) Within three months of the date of this decision, details of a 1.8m high privacy screen [to replace the existing screen fence] to the west boundary of the raised patio shall be submitted to and approved in writing by the Local Planning Authority. The privacy screen shall then be installed in accordance with the approved details within the following three month time period and shall thereafter be retained.

Preliminary Matter

2. On 20 July 2021, the Government published a revised National Planning Policy Framework (the Framework). The revised Framework does not materially alter national policy in respect of the considerations raised in this appeal and therefore the parties have not been prejudiced by its publication. I have determined this appeal on the basis of the revised Framework.

3. I was requested to view the site from the adjacent property of 10 Blake Hill, and I was able to do so at my visit.
4. The application for the proposal was submitted retrospectively, and development including the extension and alterations to the patio was in place at the time of my visit.

Main Issue

5. The main issue is whether the condition is reasonable and necessary in the interests of the living conditions of residents of 10 Blake Hill with regards to privacy.

Reasons

6. Due to the steeply sloping topography and tight-knit arrangement of the area, the rear amenity space of the appeal site provides an elevated view of the rear garden of No 10. As a result, the privacy of residents of No 10 can be significantly affected by alterations to the site levels and layout of the rear of the appeal site, even if such alterations are minor in scale.
7. The proposal includes an increase in the height of a patio area to the rear of the proposed extension. Although there is some disagreement as to the specific increase in site levels, the increase in height compared to the original site was apparent from the appellant's submitted plans and at my visit.
8. I saw that the increased height of the proposed patio exacerbates the degree of overlooking of No 10 enabled by the appeal site. Due to the extent of the patio and the open views it provides, this has led to significant harm to the living conditions of neighbouring residents from loss of privacy as well as the perception of being overlooked. Whilst a degree of screening was provided by an existing fence and decorative screen, these do not mitigate for the increased overlooking and loss of privacy enabled by the patio.
9. Specifically in relation to the decorative screen, this provides a degree of screening of views from the centre of the patio and the area furthest from No 10. However, this is of limited effect in views from the area of the patio closest to No 10, and I do not consider that it is likely that activity on the patio would be mainly limited to the areas with the greatest screening.
10. The original patio would also have provided elevated views of No 10. However, for the reasons stated previously in respect of the sensitive relationship between the properties, I do not consider that the degree of overlooking would have been as intrusive as that resulting from the appeal proposal.
11. The appellant refers to the potential to lower the patio under the property's permitted development rights, and submits that this would not require any fencing. However, even if that was the case, the patio would be materially lower than as presently constructed with a commensurate reduction in overlooking, even allowing for the lack of a screen fence. Due to the sensitive arrangement of the appeal site and No 10, incremental changes in site levels can have a disproportionate effect on privacy, and on the basis of what I have seen and read the Council's concerns in respect of the appeal proposal are well-founded. I therefore give a reduction in the height of the patio limited weight as a fallback scheme. In any event, should the appellant wish to lower the patio, this is a matter which could be addressed further with the Council.

12. There are areas further to the rear of the garden of the appeal site which also provide an elevated view of the neighbouring property. However, due to the hard surfacing of the patio and its relationship with the host dwelling, I consider that the patio would be more intensively used with increased impact on the privacy of No 10. The elevated areas are also located further to the rear of the garden of the appeal site, and are therefore set further away from the extent of the garden closest to the host dwelling of No 10. A degree of screening is also provided by planting on the site boundary further to the rear, although I acknowledge that the retention of this planting cannot be relied upon.
13. I am mindful of the effect that the privacy screen would have on views from the patio. However, it would not prevent the use of the patio and I consider that the effects on the outlook from the appeal site are justified by the need to protect the living conditions of neighbouring residents. Due to the arrangement of the site and the nature of existing means of enclosure in the area, I also do not consider that the privacy screen would be an intrusive feature in views from the surrounding area.
14. I conclude that the condition is reasonable and necessary in the interests of the living conditions of residents of No 10 with regards to privacy. The condition would ensure that the proposal complies with the privacy and private amenity space requirements of policy BE2 of the Replacement Calderdale Unitary Development Plan 2006.
15. The timescale specified in the original condition for the submission of details and the implementation of works has expired. On that basis, the original condition is no longer reasonable within the terms of paragraph 56 of the Framework. I will therefore replace the condition with one in which the timescale for the submission of details and implementation commences on the date of my decision.

Other Matters

16. Reference has also been made to a window in the side of the extension and its effects on overlooking and loss of privacy. However, the evidence suggests that the conservatory previously located at the site provided a similar outlook, and this matter does not therefore weigh against the proposal.
17. Comments raised locally also refer to the materials used in the extension. However, this is a matter for the Council in respect of the details on the approved plans.

Conclusion

18. For the reasons set out above, I conclude that the planning permission should be varied as set out in the formal decision.

David Cross

INSPECTOR