



Appeal Decision

Site visit made on 13 September 2022

by **Sarah Manchester BSc MSc PhD MIEnvSc**

an Inspector appointed by the Secretary of State

Decision date: 6 October 2022

Appeal Ref: APP/M0933/W/22/3298267

Armore, 18 Yew Tree Road, Grange-over-Sands, Cumbria, LA11 7AA

- 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 Mr Robert Roberts against the decision of South Lakeland District Council.
 - The application Ref SL/2022/0204, dated 3 March 2022, was approved on 3 May 2022 and planning permission was granted subject to conditions.
 - The development permitted is full width porch extension with glazed 1st floor balcony over, extension to garage with link staircase to house.
 - The condition in dispute is No 5 which states that: *Details of a 1.8m high privacy screen on the south western elevation of the balcony hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the balcony. The screen shall be erected in accordance with the approved details prior to first use of the balcony and shall be retained for the lifetime of the development.*
 - The reason given for the condition is: *To ensure the development protects the amenity of the neighbouring properties in accordance with Policy DM1 of the Development Management Policies Development Plan Document and Policy CS8.10 of the South Lakeland Core Strategy.*
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Decision

1. The appeal is allowed and the planning permission Ref SL/2022/0204 for full width porch extension with glazed 1st floor balcony over, extension to garage with link staircase to house at Armore Yew Tree Road, Grange-over-Sands, Cumbria, LA11 7AA granted on 3 May 2022 by South Lakeland District Council, is varied by deleting condition No 5.

Preliminary Matters

2. Planning permission was granted for a full width porch extension with glazed first floor balcony and extension to garage with link staircase to house. The Council was satisfied with the proposal in all respects except in relation to overlooking and loss of privacy to the garden of the neighbouring property Spindrifft to the south west. To mitigate the harm, condition No 5, which requires a tall privacy screen to the side of the balcony, was imposed.
3. The appellant considers that the balcony would not result in more harmful overlooking of the neighbours than the existing first floor side facing dining and living room windows. He further considers that a 1.8m screen would be visually obtrusive and harmful to his living conditions, including in terms of outlook.

Main Issue

4. Therefore, the main issue is whether the condition is reasonable or necessary in the interests of the living conditions of the residential occupiers of Spindrifft.

Reasons

5. Arnmore is a large detached dwelling in a residential area developed on sloping ground. It is part of a row of non-matching detached properties set back from and elevated above Yew Tree Road, which is itself set below properties to the rear on Kents Bank Road. Boundaries are formed by walls and mature hedges. The appeal dwelling is on a similar front building line to the neighbouring property Tree Tops. However, Spindrift sits behind the rear building line of the appeal property in a substantially large plot that slopes down from Kents Bank Road to Yew Tree Road.
6. The appeal property is set in a narrow plot. In the absence of a privacy screen, there would be relatively close views from the balcony to the side boundaries. However, as the balcony would be to the front of Arnmore, it would be further from the neighbouring dwelling Spindrift than the existing first floor side facing habitable room windows. Consequently, there would be no increased or closer overlooking or loss of privacy to the neighbours in or close to their dwelling.
7. The shared side boundary is formed from a very tall and dense hedge which provides a significant degree of privacy to the garden of Spindrift. While the facing first floor windows of Arnmore are above the height of the boundary, nevertheless the hedge screens much of the neighbouring garden from views. There would be similarly limited views of part of the garden from the balcony.
8. At the time of my visit the garden between Spindrift and Yew Tree Road appeared to largely comprise lawn with scattered trees. This corresponds with the aerial photographs submitted with the appeal. The part of the garden that would be visible from the balcony is somewhat remote from Spindrift and it does not appear to function as the primary outdoor space for the neighbours, such as is used for sitting out or entertaining.
9. Taking into account the large size of the Spindrift garden and the existing overlooking from the appeal property habitable room windows, the balcony would not result in increased or more intrusive overlooking. The balcony as originally applied for would not be detrimental to the neighbours in their dwelling or their garden.
10. Consequently, I conclude that the tall privacy screen subject of condition No 5 is not necessary or reasonable in the interests of the living conditions of the neighbouring occupiers of Spindrift. The development without the condition would not adversely affect the residential amenity of the neighbours. As such, there would be no conflict with the amenity aims of Policy DM1 of the South Lakeland District Council Local Plan Development Management Policies Adopted March 2019 or Policy CS8.10 of the South Lakeland Local Development Framework Core Strategy Adopted October 2010.

Conclusion

11. For the reasons given above, the appeal should succeed and the planning permission should be varied by deleting the disputed condition.

Sarah Manchester

INSPECTOR