



Appeal Decision

Site visit made on 7 March 2024

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st May 2024

Appeal Ref: APP/R2330/D/23/3332068

86 Petre Crescent, Rishton, Lancashire BB1 4RG

- 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 J Seal against the decision of Hyndburn Borough Council.
 - The application Ref: 11/23/0303 dated 21 July 2023, was refused by notice dated 21 September 2023.
 - The development proposed is described a new fence alongside existing boundary fence to screen garden allowing for difference in land levels.
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Decision

1. The appeal is allowed and planning permission is granted for a new fence alongside existing boundary fence to screen garden allowing for difference in land levels at 86 Petre Crescent, Rishton, Lancashire BB1 4RG in accordance with the terms of the application Ref: 11/23/0303 dated 21 July 2023, and the plans submitted with it, 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 approved plans: Site and location plans, existing & proposed wall layouts - DWG No: Planning and DWG No: Planning Elevations (Amended 20_08_23).
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be metal posts and timber panels as detailed on the application form and shown on the approved plan.

Procedural Matter

2. An amended plan was submitted during the determination of the application. I have considered the appeal on the basis of the plan referenced in the decision notice, DWG No: Planning Elevations (Amended 20_08_23) which reduced the height of the proposed boundary treatment.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the living conditions of the occupiers of neighbouring properties.

Reasons

4. The site is a detached two storey property within a predominantly residential area. Due to the topography of the land, which falls from west to east, the rear garden of the appeal property slopes from the rear elevation towards the rear boundary. The appeal property also sits at a lower level than the neighbouring properties, No's. 10, 12 and 14 Meadowhead Drive.
5. The rear elevations and associated gardens of No's. 10, 12 and 14 Meadowhead Drive face the appeal site on the northern boundary. The existing boundary treatment comprises a wall which appears to extend up to the ground level of the adjacent properties with mismatched fencing above. The fence line steps down from west to east.
6. The levels and boundary treatments are such that the existing rear gardens of No's 10, 12 and 14 are in general at a higher level to the appeal site and from the photographs provided and from what I observed during my site visit occupiers of the neighbouring properties have the potential to overlook the rear garden of the appeal site. I also noted an outbuilding at No. 10 close to the appeal boundary which contains a window which directly overlooks the appeal site.
7. The proposed development would mitigate overlooking from neighbouring properties to a degree from the garden areas and the outbuilding window. The increase in boundary treatment proposed would however have an effect on the wider views from the neighbouring properties and due to the modest garden areas would cause overshadowing. Notwithstanding this the increase would not exacerbate the overshadowing caused by the existing boundary treatment to the extent which would justify a refusal.
8. The proposed development would regulate the mismatched boundary treatment when viewed from the appeal site and would provide a degree of privacy one may expect from within a private outdoor amenity space. Whilst I acknowledge overlooking would still occur from first floor windows the overlooking from garden areas would be reduced.
9. I conclude that the proposed development would not harm the living conditions of the occupiers of neighbouring properties.
10. There is no conflict with Policy Env7 of the Hyndburn Core Strategy (2012) and Policy DM29 of the Hyndburn Borough Council, Local Plan, Development Management Development Plan Document (2018) which amongst other things seek to ensure developments protect the existing and future living conditions of occupiers.

Other Matters

11. Third party comments have been submitted raising concerns relating to, amongst other things, the ownership and maintenance of the existing fence and wall. This is beyond the remit of this appeal and can be dealt with under legislation dealing with private legal rights regarding land ownership.

Conclusion and Conditions

12. For the above reasons I conclude that this appeal should be allowed.
13. I have imposed conditions relating to the standard time limit for commencement of development and plans to be adhered to as this provides

certainty. I have also added a condition concerning materials to ensure a satisfactory appearance.

C Pipe

INSPECTOR