



Appeal Decision

Site visit made on 17 April 2024

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 May 2024

Appeal Ref: APP/P1133/W/23/3333521

9 Oak Tree Grove, Shaldon, Devon TQ14 0BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr William Hands against the decision of Teignbridge District Council.
 - The application Ref 23/00338/HOU was approved on 10 August 2023 and planning permission was granted subject to condition.
 - The development permitted is Single storey side extension with terrace over, porch and external alterations.
 - The condition in dispute is No 3 which states that: Prior to the first use of the roof terrace hereby approved, a glazed privacy screen shall be installed on the eastern edge of the roof terrace between the host dwelling and number 10 Oak Tree Grove. The screen shall run the entire length of the side of the roof terrace and shall be a minimum of 1.7m in height and glazed with a minimum of level 3 obscure glazing over the entirety of the screen with no clear areas. Once installed the screen shall thereafter be retained.
 - The reason given for the condition is: In the interest of neighbouring amenity.
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Decision amount

1. The appeal is dismissed.

Preliminary Matters

2. Although a privacy screen on the eastern edge of the roof terrace was not in place at the time of my site visit, I observed that the development permitted under Ref 23/00338/HOU (the works) had begun and appeared to be substantially complete. I have determined the appeal on this basis. I will therefore also refer to the plans submitted with the original planning application which showed the situation at that time, such as Drawing No 2303 P002, as the preexisting plans.

Main Issue

3. The main issue is whether condition 3 is necessary, with particular regard to the living conditions of No 10 Oak Tree Grove in respect of overlooking.

Reasons

4. The available evidence indicates that, prior to the works, extensive views of No 10 and its rear garden were available from No 9's rear windows, which face east and serve the living room and kitchen. With these windows unchanged, this remains the case. However, unlike under the approved, now-built situation, the preexisting plans show that the previous opening in the side wall of No 9 (that faces north) was limited to the far side of the property, away from the shared boundary with No 10. It seems to me that views of No 10 from

that window, despite it including a Juliet balcony, would have therefore been limited by the oblique angle and degree of separation. Although providing significant views, the potential for overlooking of No 10 from the appeal property was therefore effectively confined to the two rear windows. Their size and height above floor level would also have limited the views to some extent, with full views of No 10's west windows and garden only available when standing close to the two windows, as is the case now.

5. Due to boundary treatment, there is very little potential for overlooking of No 10 from The River House. However, due to its position, elevation, extensive glazing and terrace (with clear glazing), the property to the north-east (known as White Wings) does have views of No 10 and its rear garden. Nevertheless, I observed on my site visit that the possible extent of overlooking of No 10 (and particularly its main sitting out area) from that property is limited by the degree of separation, angle and boundary treatment.
6. Accordingly, whilst No 10 has historically been overlooked by adjoining properties, opportunities for overlooking were, prior to the works on site, generally restricted to No 9's not particularly large rear windows and the limited views from White Wings. However, the introduction of a terrace with a screen at the height proposed would provide an additional open vantage point with significant additional, unrestricted overlooking opportunities of No 10. People sitting and particularly standing on the terrace would also be afforded more unrestricted views of No 10's garden than from No 9's two rear windows. Irrespective of where people may stand or linger on the terrace, and despite other balustrades in the locality being transparent, it would therefore further reduce, significantly, the level of privacy of No 10.
7. In addition, whilst the two rear windows do allow for direct – and, when near to them, widespread – overlooking, the degree of actual overlooking of No 10 that would likely occur from those windows would be more limited than from the roof terrace due to the different nature and use of indoor rooms and terraces. For example, whilst more time may be spent indoors overall, it is likely that occupiers and visitors in No 9 would spend proportionally less time looking out of the rear windows than looking from the terrace, which offers much greater opportunity for unobstructed and more comprehensive views of the area. Terraces in general also give rise to a greater feeling of overlooking and resulting loss of privacy than windows of the size in the rear wall of No 9. The level of potential overlooking of No 10 from the terrace with a 1.1 metre high screen would therefore be significantly greater than the preexisting situation, whereas a screen of the size required by condition 3 would avoid this.
8. Accordingly, I conclude that condition 3 is necessary, with particular regard to the living conditions of No 10 in respect of overlooking. The lack of objections from neighbours does not lead me to a different conclusion.
9. Whilst not referring to any specific development plan policy, the reason given for the condition, when read in conjunction with the associated Officer Report, is sufficiently clear to understand why it is necessary. With my attention drawn to Policy WE8 of the Teignbridge Local Plan 2013-2033, I find that removing condition 3 would, by reducing the level of privacy at No 10, also not accord with the policy in relation to, amongst other aspects, protecting neighbours' living conditions.

Other matters

10. A higher screen on the east elevation of the terrace would be larger, more visible and add to the scale of the extension. It may also necessitate a different fixing from the frameless style of the other two sides. Be that as it may, it would remain a relatively minor feature and, despite other terraces in the surrounding area not having such a screen, would not read as an eyesore in the locality. Consequently, it would not harm the character or appearance of the host building or surrounding area.
11. The taller privacy screen required by condition 3 would not change the views or outlook available from the two rear windows which serve the kitchen and living room. Whilst it would limit to some extent the eastward views available from the large opening now installed in the side wall, particularly from the sliding door, the previous window in that wall was not as wide and was positioned on the other side of the property. As such, it seems to me that the taller privacy screen required by condition 3 would not have changed the views or outlook from that previous window and cannot reasonably be described as amounting to an unjust diminution of No 9's natural amenity.

Conclusion

12. For the above reasons, the appeal is dismissed.

T Gethin

INSPECTOR