
Appeal Decision

Site visit made on 4 February 2025

by **V Goldberg BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 April 2025

Appeal Ref: APP/K0425/W/24/3349851

12 Sycamore Drive, Marlow Bottom, Buckinghamshire SL7 3NL

- 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 Orla Handell against the decision of Buckinghamshire Council - West Area (Wycombe).
 - The application Ref 24/06185/FUL was approved on 9 August 2024 and planning permission was granted subject to conditions.
 - The development permitted is described as 'Householder application for construction of level-surfaced patio and boundary walls to site curtilages (part retrospective)'
 - The conditions in dispute are Nos 1 and 2 which state that:
 - (1) The development hereby permitted shall be retained in accordance with the details contained in the planning application hereby approved and plan number JWL 01A received on 22 July 2024; unless the Local Planning Authority otherwise first agrees in writing.
 - (2) All the proposed development hereby permitted, including any alterations to the rear site levels and all boundary treatment shall be demolished in their entirety, debris removed from the site and reinstate to its pre-development site levels and appearance, unless within four months of the date of this permission, the raised garden height in connection with the retaining wall and steps accesses to the rear have been removed and lowered to a levelled ground surface hereby permitted, together with the reduction of the boundary wall height next to no.10 Sycamore Drive up to maximum 1.8m high (measured from the garden levels of application site following removal of the raised garden) and that the boundary treatment walls, hereby permitted have been finished with rendered finished, in accordance with the approval of details and approved plan numbers DWL 01A (received on 22nd July 2024). Unless otherwise first agreed in writing by the Local Planning Authority there shall be no building-up or increase of the approved ground levels to the rear gardens of the site as per approved plans and the boundary walls shall thereafter be retained in accordance with the approved details.
 - The reasons given for the conditions are:
 - (1) In the interest of proper planning and to ensure a satisfactory development of the site.
 - (2) To ensure the specified works will be carried out as approved, and to avoid any detriment to amenity or environment by reason of works remaining uncompleted.
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Decision

1. The appeal is allowed and planning permission 24/06185/FUL, for the construction of level-surfaced patio and boundary walls to site curtilages at 12 Sycamore Drive, Marlow Bottom, Buckinghamshire SL7 3NL granted on the 9 August 2024, is varied by deleting condition 1 and 2 and replacing them with the following:
 - (1) Unless within four months of the date of this permission, the work detailed in approved plan number DWL 01a (received on 22nd July 2024) is carried out, the development hereby permitted, shall be

demolished in its entirety, debris removed from the site and land reinstated to its pre-development site levels and appearance. Upon completion of these works the development must be maintained as such thereafter.

Preliminary Matter

2. Condition one refers to plan number JWL 01a, but the plan submitted with the appeal is labelled as DWL 01a. The parties were asked to supply a copy of the correct drawing. The Council subsequently responded to advise that there is only one drawing and that there was an error made with the plan number in condition one, but the drawing number is correct in condition two. The correct drawing number is therefore DWL 01a which will be referred to in this decision.

Background and Main Issue

3. Planning permission has been granted for a 'level-surfaced patio and boundary walls to site curtilages'. This application was part retrospective and required the wall next to 10 Sycamore Drive to be reduced in height to 1.8m, when measured from the garden levels of the application site following removal of the raised garden.
4. The application followed an enforcement investigation which in part dealt with the wall next to 10 Sycamore Drive which was approximately 2.4m tall. The wall was subsequently reduced in height.
5. Through this appeal, the appellant seeks to increase the height of this wall by 200mm. The appeal therefore seeks permission to carry out the development without complying with conditions 1 and 2 which require the garden level to be lowered, the boundary wall next to 10 Sycamore Drive to be reduced to 1.8m in height and the development to be maintained in accordance with the approved drawing.
6. The main issues are therefore whether conditions one and two are reasonable and necessary to meet the aims of ensuring a satisfactory development on site and to protect the living conditions of the occupants of 10 Sycamore Drive, with regard to outlook.

Reasons

7. Given that condition one refers to the wrong drawing number and duplicates condition two insofar as it requires the development to be retained in accordance with the approved drawing, it is neither necessary nor reasonable. Furthermore, reference to an incorrect drawing would render the condition unenforceable. Accordingly, the condition would not meet the tests contained in the National Planning Policy Framework and in the Planning Practice Guidance.
8. The appeal site comprises a detached property on Sycamore Drive. Along Sycamore Drive, properties tend to have rear gardens demarcated by traditional timber fencing. The wall that is the subject of the appeal has been erected using breeze blocks and painted.
9. Condition two was imposed to secure the proposed remedial works detailed in the planning application. One aspect of this remedial work was to reduce the height of the wall neighbouring 10 Sycamore Drive. This is because the previous height was

considered overbearing in appearance when viewed from the neighbouring property and visually intrusive by virtue of the materials used. Whilst the current height of the wall results in only a small section of it being visible above the fence at 10 Sycamore Drive, an increase in height would result in the uncharacteristic boundary treatment being highly visible and overbearing when viewed from the neighbouring property. As such the proposed increase would result in a negative impact on the character and appearance of the area and the outlook of the occupants of 10 Sycamore Drive. This would fail to comply with Policy DM36 of the Wycombe District Local Plan 2019 insofar as it seeks development to achieve high quality design, that respects the character and appearance of the area and preserves the amenities of neighbouring properties.

10. Whilst the appellant considers that the proposed increase in height would fall within permitted development tolerances, this would not be the case as the original ground levels have been raised. Whilst the proposed wall would appear to be 2m in height when measured within the appeal site, the height of the wall would exceed 2m when taken from the original ground level and viewed from 10 Sycamore Drive.
11. Given the need to retain the wall at a height of 1.8m the aims of condition two remain. However, in light of condition one being neither reasonable, necessary nor enforceable, condition two needs to be deleted and replaced with a condition that requires the remedial work detailed in drawing DWL 01a to be carried out and maintained thereafter. The description of the work to be carried out and restrictions on further works detailed in the original condition have been removed. This is because adherence to the approved drawing and the requirement to maintain the works, thereafter, obviates the need for these matters to be specified.
12. For the reasons given above, condition one is neither necessary and reasonable to ensure a satisfactory development on site and condition two must be deleted and replaced to protect the living conditions of the occupants of 10 Sycamore Drive, with regard to outlook.

Conclusion

13. For the reasons given above I conclude that conditions 1 and 2 should be deleted and replaced with a modified condition detailed in this decision. Accordingly, the appeal should succeed.

V Goldberg

INSPECTOR