
Appeal Decision

Site visit made on 1 February 2017

by Mr Kim Bennett BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 February 2017

Appeal Ref: APP/D5120/D/16/3163084
65 Swanbridge Road, Bexleyheath DA7 5BS

- 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 Miss Marion Smith against the decision of the Council of the London Borough of Bexley.
 - The application Ref 16/00954/FUL, dated 13 July 2016, was refused by notice dated 20 September 2016.
 - The development is the retention of decking, fencing and balustrade.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupiers of No 67 Swanbridge Road.

Reasons

3. The appeal property comprises an end of terraced house located on the northern side of Swanbridge Road. At the rear all the rear gardens of properties on this side of the road slope upwards in a northerly direction. There is a surfaced alleyway adjacent to the western side of the property, which provides rear access to the ends of rear gardens to properties to the east and west.
4. The development has already been carried out and comprises a substantial deck area which has been constructed towards the end of the rear garden and spanning the full width of it. In order to provide a level area and because of the slope of the rear garden, it stands approximately 1 metre above the original ground level at the end of the deck facing the house. A balustrade has been erected around the southern end of the deck, linked to steps providing access from the garden, and an increased height fence has been erected for the depth of the deck where it adjoins the rear garden of No 67 Swanbridge Road. To the rear of the deck area are two sheds which have clearly been there for some time and do not form part of the current development.
5. The appellant argues that nothing can be done about the existing slope in the land and that there has always been overlooking between properties as a result. It is also suggested that the development was in place before the adjoining

neighbour moved in and that the garden of No 67 is not often used. Furthermore some boundary vegetation has also been removed which has increased the level of overlooking.

6. I acknowledge that because of the topography of the land there has always been some mutual overlooking of rear gardens between residential properties. However by constructing the deck area in the manner undertaken and because of its significant size, it has resulted in a dominating structure at the end of the rear garden. By standing or sitting on the deck, I noted that there are clear views into the rear garden of No 67 as well as the rear rooms of that property because of the significant size of its rear facing windows. In my view, the development has resulted in a significantly increased actual and perceived feeling of being overlooked with a consequent loss of privacy as a result, to an extent which is unacceptable. The situation is made worse by the slightly offset nature of rear gardens relative to the buildings themselves so that the structure is more pronounced visually when looking from the rear of No 67. I acknowledge that some overlooking would have been reduced had boundary vegetation been retained, but I have assessed the development based on conditions that exist as I found them at the time of my site visit.
7. I note the comments regarding the recent new occupancy at No 67, but occupancy of properties change over time, together with use of rear garden areas, as indeed it might for the use of the existing deck area by an alternative occupier. Accordingly the merits of development must be considered on the basis of an assessment as to whether adequate levels of privacy and amenity can be provided between properties, rather than the current living styles of adjoining occupiers.
8. In reaching the above finding, I am very sympathetic to the reasons the appellant has set out for the construction of the deck in terms of providing a level and useable area at the rear where her elderly father can enjoy the sunshine. I also note the offer to raise the height of the adjoining fencing. However such a matter would be for the appellant to discuss with the Council in the first instance, in order to see if there are alternatives to explore in terms of fencing or even redesign of the deck area which might not result in the same harm that is being caused currently.
9. I note that the Council raise no objections to the balustrade or existing fencing, but for the reasons set out, I find that the deck area has caused harm to the living conditions of the occupiers of No 67 Swanbridge Road. The development is therefore contrary to Policies ENV39 and H9 of the Council's Unitary Development Plan 2004 in that it affects the privacy, amenity and environment of the occupiers of the adjoining property.
10. Accordingly the appeal should be dismissed.

Kim Bennett

INSPECTOR