
Appeal Decision

Site visit made on 10 January 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 16 February 2017

Appeal Ref: APP/U5930/D/16/3160702

58 Lambourne Gardens, Chingford, London E4 7SG

- 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 Joe Heaney against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 161756, dated 3 June 2016, was refused by notice dated 27 July 2016.
 - The development proposed is construction of an embankment and retaining wall to extend residential garden space.
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Decision

1. The appeal is dismissed

Preliminary Matter

2. It was apparent on my site visit that initial works had commenced, though the appellant states that they were suspended when the Council advised that planning permission was required.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and,
 - the living conditions of the occupants of nearby properties, with particular regard to outlook.

Reasons

Character and appearance

4. The appeal site comprises an area of highway embankment which slopes down to the road and fronts onto Eatons Mead. It is to the west of a two storey dwelling at 58 Lambourne Gardens in a residential area. A public footpath runs next to its western boundary from Eatons Mead and around the corner into Lambourne Gardens, where it continues uphill.
5. It is proposed to construct a sizeable retaining wall, which would enable the land level to be raised, via infill, to the same height as the house and garden at No 58. The area would then be integrated into the existing garden of that property. As a result of the topography, the wall would be as high as 3.2 metres at its northern end, gradually dropping down, as the land rises, to 0.8

metres at the southern end. Though the wall would slope away slightly, it would be set back only a short distance from the footpath and appear as a major construction above it. Moreover, a 1.2 metre high wooden garden fence would be mounted on top of the wall between brick piers. Therefore, the proposal would form a substantial raised bank of land.

6. The character of the immediate area is defined by the hill sloping westwards towards the reservoir. The neighbouring properties on the east side of Eatons Mead are set back from the road with their gardens sloping down towards it and the houses, gardens and verges in the area generally follow the natural topography, which contributes to its character. The loss of the sloping green bank, which compliments other verges, greenery and the trees lining the opposite side of Eatons Mead, would detract from the visual appearance of the area.
7. The appellant says that the new retaining wall would be finished in an attractive high quality facing material that would be more visually appealing than the pre-existing wall. However, that wall is set much further back from the road at the top of the green bank and is not as noticeable. There would be some climbing planting on the narrow strip between the wall and the footpath to soften its effect, but it would not, in my view, be sufficient to mitigate its overall mass. A large area of raised land, buttressed by a bulky retaining wall on a prominent corner in public view would appear dominant and incongruous.
8. The above factors lead me to conclude that the proposed development would harm the character and appearance of the area. It would, therefore, conflict with Policy CS15 of the Waltham Forest Local Plan Core Strategy (CS)¹ and Policy DM29 of the London Borough of Waltham Forest Development Management Policies Local Plan (DMP)². Amongst other things, those policies seek to ensure that development responds positively to local context and character, takes account of patterns of development and considers issues of height, scale and massing sensitively.

Living conditions

9. The dwellings opposite the appeal site at 30 and 32 Eatons Mead are at a lower land level and sit below the road. As a consequence, their first floor windows would be adjacent to the large retaining wall on the other side of the road.
10. Again the appellant refers to the fact the proposed wall would be replacing a pre-existing retaining wall but, as already noted, that wall is set further away at the top of the green bank. The new wall would have advanced towards the houses opposite and would be more prominent, sited on the edge of the public footpath.
11. The appellant quotes guidance on separation distances from the Council's Supplementary Planning Document on Urban Design,³ arguing that the proposal meets the relevant criterion in that the wall would be 20 metres away. However, that guidance is primarily directed at issues of privacy and overlooking. As the appellant notes, those figures refer to distances between the windows of habitable rooms. Whilst I understand the comparison being

¹ Adopted March 2012

² Adopted October 2013

³ February 2010

made, the document cautions against a 'blanket' approach in applying those standards, suggesting that the specific context should also be considered.

12. In the appeal before me, the concern is about the effect on the outlook from Nos 30 and 32. In planning terms, that means whether the occupiers would find the new structure opposite overbearing and dominant. I have taken account of the distances involved and that the windows would not be directly facing the highest part of the wall. Nevertheless, I consider that the height, bulk, scale and length of the retaining wall, with pillars and a garden fence above it, close to the road, would dominate the outlook from those properties, particularly at first floor level, and have an overbearing effect.
13. As the dwellings at 41 and 43 Eatons Mead are on the same side of the road as the appeal site, views of it from them would be more oblique. Though the wall would be at its highest at that end, the site would also be partially obscured by existing vegetation on the boundary with No 41. Therefore, I do not consider that the outlook from those properties would be significantly affected.
14. Consequently, I conclude that proposed development would harm the living conditions of the occupants of the neighbouring properties at 30 and 32 Eatons Mead, with particular regard to outlook. It follows that the proposal would be contrary to Policy DM32 of the DMP and Policy CS13 of the CS, insofar as they seek to ensure that development does not adversely affect the outlook of neighbours and recognise the importance of retaining satisfactory living conditions for surrounding occupiers.

Other Matters

15. The appellant advises that when the land was purchased from the Council, its intended purpose was made clear. However, that aspect is not directly relevant to the planning considerations before me.
16. Whilst I can understand the appellants wish to create a larger garden area, only limited weight can be given to such personal circumstances, unless an exceptional need can be evidenced, as the planning system is generally focussed on the wider public interest. Therefore, whilst I have considered that aspect, it does not outweigh the harm that I have identified.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR