

Appeal Decision

Site visit made on 27 March 2017

by P Eggleton BSc(Hons) MRTPI

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

Decision date: 24 April 2017

Appeal Ref: APP/N5090/D/17/3168580

24 Friars Avenue, London N20 0XH

- 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 M Shah against the decision of the Barnet London Borough Council.
 - The application Ref 16/7176/RCU, dated 2 November 2016, was refused by notice dated 4 January 2017.
 - The development proposed is the retention of existing patio with additional landscaping.
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Application for Costs

1. An application for costs was made by Mr M Shah against the Barnet London Borough Council and is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is the effect on the living conditions of the residents of 22 and 26 Friars Avenue with regard to privacy.

Reasons

4. The proposal relates to a raised patio area to the rear of the house which has already been constructed. The attached property to the south, 22 Friars Avenue, is set at a slightly lower level and also has a raised patio. Although the fence between these terraces is relatively high, because of its limited depth, it is not unacceptably overbearing. However, the patio that is the subject of this appeal, has a section that extends significantly deeper and beyond the higher part of the dividing fence. From this deeper area, there are clear views back into the neighbouring house and across the adjacent patio. This relationship is entirely unacceptable and is harmful to the living conditions of the residents of 22 Friars Avenue with regard to privacy.
 5. It is proposed that the extended area be landscaped and a fence or balustrade be erected across the patio so that access to it would be restricted. The appellant refers to the proposed landscape area as being sunken but the plans illustrate it as being only marginally lower than the level of the main patio. I acknowledge that sensitive planting would not be overbearing when in the
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- neighbouring property but I am not persuaded that the proposals, to include landscaping in this extended area or to restrict access, would satisfactorily protect the amenities of the neighbouring residents in the long term.
6. Clear views would remain available from this area whilst maintenance of the landscaping is carried out. I am also not certain that a condition to prevent access to this area would meet all the tests set out in the *National Planning Policy Framework*. In any event, the adjacent residents would be acutely aware that the neighbouring residents would have an easily accessible platform from which there would be clear views into the private parts of their house and garden. This, in itself, would unacceptably reduce the enjoyment of their property.
 7. Whilst the proposal seeks to make the best of an existing situation, a well-designed patio would take into account, from the outset, the living conditions of the neighbouring residents. This appears to have been the case with regard to the approved plans which show the main patio area to the other side of the house. The unnecessarily raised section represents poor design in this context and does not therefore fall to be considered as sustainable development.
 8. The property to the north has a patio of a similar height and depth to the narrower section of the adjoining patio. The height of the intervening fence is not therefore imposing. Although both patios provide views into the neighbouring gardens, these are of the less private areas which are already overlooked as a result of the fall in land levels. There is a view from the deepest area of the new patio back towards the far end of the neighbouring patio. However, this is from a significant distance. Although privacy would be reduced if this area were to be used, I am not satisfied that the development would result in unacceptable harm with regard to the living conditions of the residents of 26 Friars Avenue.
 9. Although the proposed planting would not be overbearing and the living conditions of the residents of number 26 would not be unacceptably harmed, the proposed planting area would not overcome my concern that the deeper area of patio represents poor design and would continue to result in an unacceptable loss of amenity for the occupants of 22 Friars Avenue.
 10. The proposal therefore conflicts with Policies CS NPPF, CS1 and CS5 of the Local Plan Core Strategy 2012 and Policy DM01 of the Local Plan Development Plan Document 2012. As these policies generally accord with the design and amenity requirements of the *Framework*, I afford them considerable weight. The *Framework* is also clear that permission should be refused for development of poor design. The Council's Supplementary Planning Document: Residential Design Guidance 2016 includes similar design and privacy requirements and is clear that all residents should feel at ease within their home.
 11. I conclude that the matters put forward by the appellant are not sufficient to outweigh my concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR