

Appeal Decision

Site visit made on 7 May 2017

by D J Barnes MBA BSc(Hons) DipTP MRTPI

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

Decision date: 30 May 2017

Appeal Ref: APP/J1535/D/17/3168418

35 Bell Common, Epping CM16 4DY

- 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 Neil Elliot against the decision of Epping Forest District Council.
 - The application Ref EPF/2261/16, dated 21 August 2016, was refused by notice dated 17 October 2016.
 - The development is the erection of a rear patio extension 1300mm above the existing ground level and 1.8m high balustrading to sides and 1m high glass balustrading to patio.
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Decision

1. The appeal is Dismissed

Procedural Matter

2. Although the appeal property lies within the Green Belt it has not been suggested that the development, as it has been erected, represents inappropriate development in terms of the National Planning Policy Framework (the Framework) or conflict with the development plan policies for the protection of the Green Belt. There are no reasons to disagree with that position and this appeal has been determined on the basis of other development plan policies and other material considerations.

Main Issues

3. It is considered that the main issues are (a) whether the development preserves or enhances the character or appearance of the Bell Common Conservation Area and (b) the effect of the development on the living conditions of the occupiers of 33 Bell Common.

Reasons

Character and Appearance

4. The appeal property is situated within the Bell Common Conservation Area where there is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Although the drafting is not the same, this approach is echoed in Policies HC6 and HC7 of the Epping Forest District Local Plan and Alterations (LP).
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5. No details have been provided concerning why the Conservation Area was designated. Based upon the site visit, the character and appearance of the Conservation Area is particularly derived from linear residential development of predominantly 2-storey dwellings of varying designs fronting an area of verdant open space. The appeal property fronts onto this open space. There are some older dwellings which may possess some historic interest but they are not adjacent to the appeal property.
6. To the rear, the gardens generally back onto open countryside. The large verdant gardens of the property and adjoining dwellings slope away from their host properties. Although some outbuildings have been erected, these gardens make a positive contribution to the open and verdant character of the Conservation Area by complementing the open space.
7. Permission has previously been granted by the Council for the erection of a patio in the form of a raised deck area directly adjacent to the rear elevation of the property. Although the details have not been provided, the evidence indicates that the appeal scheme includes a similar patio. According to the parties, the approved patio was between 0.2 and 0.3 metres lower than what has been erected. The appeal scheme also includes an additional raised deck which projects into the rear garden and is sited adjacent to the shared boundary with 33 Bell Common.
8. When compared to the approved scheme, the height of the patio is not so great to as to materially increase its conspicuousness when viewed from the surrounding rear gardens. However, the additional raised deck does add significantly to the overall bulk of the appeal scheme. By reason of siting and length, this element of the appeal scheme is a bulky addition to the patio which is also poorly related to the design and form of the host property.
9. The increased bulk associated with the deck, together with the additional balustrades, does have an adverse effect on the openness of the garden and reduces the garden's positive contribution to the predominantly open and verdant character and appearance of the gardens. The projection of the raised deck also has a negative effect on the visual amenity and openness of the Green Belt and this adds further weight to the identified harm.
10. Although the increase in height of the main part of the deck does not cause harm this matter is significantly and demonstrably outweighed by the harm associated with the projection and bulk of the raised deck. The appeal scheme causes less than substantial harm to the significance of the Conservation Area and, in accordance with paragraph 134 of the National Planning Policy Framework (the Framework), this harm is required to be weighed against the public benefits of the development.
11. The benefits claimed in the Appellant's Personal Statement are principally directed at family circumstances associated with the creation of a safe play space away from a pond and step free access from the host property. However, these matters, even when taken together with the choice of materials, do not outweigh the harm which has been identified associated with the raised deck. Accordingly, it is concluded that the development fails to preserve the character and appearance of the Bell Common Conservation Area and, as such, it conflicts with LP Policies HC6 and HC7.

Living Conditions

12. The increase in the height of the approved patio has consequentially increased the height of the screening along the boundary with No. 33. The Council has not specifically objected to the increase in the height of the obscure glazed screen. Although the concerns of the occupiers of No. 33 have been carefully noted, there are no reasons for me to adopt a different assessment. In reaching this judgement account has been taken of the limited difference in the screen's height when compared to the approved scheme, the effects on levels of daylight and sunlight and the outlook from the windows within the side elevation of No. 33. Potential noise and disturbance associated with the use of the patio would not be materially different between the schemes.
13. The raised deck which projects rearwards into the garden adjacent to the shared boundary with No. 33 includes a brushwood screen intended to prevent overlooking and loss of privacy for the occupiers of this neighbouring property. The appellant has suggested that a condition could be imposed requiring an obscure glazed screen to be erected as a replacement for the brushwood screen. However, this was not the scheme assessed by the Council and the occupiers of No. 33 have not had the opportunity to comment on this suggested condition. This appeal has been determined based upon what was submitted to the Council.
14. By reason of its siting and height of the raised deck, the brushwood screen projects above the boundary hedge and can be seen from both the garden and living room window of No. 33. However, the degree of projection is not such that the screen is an overbearing or visually dominant feature when viewed from the neighbouring garden or property. Further, it is predominantly the boundary hedge, rather than the brushwood screen, which has the greatest effect on levels of daylight and sunlight reaching the rear garden of No. 33. The modest projection of the screen above this hedge does not cause a material change in circumstance.
15. On this issue, it is concluded that the appeal scheme does not cause unacceptable harm to the living conditions of the occupiers of 33 Bell Common and, as such, it does not conflict with LP Policy DBE9 which refers to extensions not resulting in an excessive loss of amenity for neighbouring properties. This policy is consistent with the Framework's core principle of securing a good standard of amenity for all existing and future occupiers of land and buildings.

Conclusion

16. Although the appeal scheme does not unacceptably harm the living conditions of the occupiers of 33 Bell Common this matter is significantly and demonstrably outweighed by the development failing to preserve the character and appearance of the Bell Common Conservation Area. Accordingly, and taking into account all other matters including the circumstances identified in the Appellant's Personal Statement, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR