The Planning Inspectorate

Appeal Decision

Site visit made on 8 October 2019

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th October 2019

Appeal Ref: APP/D5120/D/19/3233845
238 Woolwich Road, London SE2 0DW

- 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 Dhadda Estates against the decision of the Council of the London Borough of Bexley.
- The application Ref 19/00194/FUL, dated 19 February 2019, was refused by notice dated 14 June 2019.
- The development is described as 'Rear garden terraced, with retaining walls and stairs'.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has submitted amended plans which show a reduction in height of the platform at the northern end of the garden, relative to the submitted plans. This involves a material alteration to the scheme subject to this appeal. However, the Procedural Guide to Planning appeals (2019) at Annexe M states that the appeal process should not be used to evolve a scheme and it is important that I determine this appeal based on what was considered by the Council, and on which interested people's views were sought.

3. At the time of my site visit, some of the works associated with the proposal had already taken place. Therefore I am considering this appeal, in part, retrospectively.

Main Issues

4. The main issues are:

   i. the effect of the proposal on the character and appearance of the area; and

   ii. the effect of the proposal on the living conditions of the occupiers of 240 Woolwich Road with particular regard to privacy within the rear garden.

Reasons

5. The immediate area is characterised by residential properties with lengthy rear gardens which slope downwards towards Lesnes Abbey Woods.

Character and appearance

6. The proposal includes a platform which has been created within the northern, bottom section of the garden, formed from concrete breeze blocks. This feature sits much higher than the neighbouring garden of No 240 and the level of the adjacent woodland. By reason of its materials and its height, it therefore forms a particularly prominent and visually intrusive feature both when viewed from the neighbouring garden and the woodland. It is visible to many as a footpath within the woods passes close to the rear boundary of the property.

7. Therefore, I conclude, on this issue, that the proposal would be contrary to saved Policy ENV39 of the London Borough of Bexley Unitary Development Plan (LBBUDP) (2004) which amongst other things seeks to ensure that all new developments are compatible with the character of the surrounding area.

Living conditions

8. The platform extends to the shared boundary with No 240. Due to its height it allows for elevated views into large sections of the garden at the neighbouring property. Although this is especially the case due to the unfinished nature of the works, the evidence indicates that this boundary would be provided with a 1.1m high green wire fence. Such a boundary treatment would fail to restrict views into the neighbouring garden. While it is accepted that in a residential setting, some overlooking of gardens should be expected, the views would be direct and from such a height that they would result in an unacceptable loss of privacy.

9. Therefore, I conclude, on this issue, that the proposal would be contrary to saved Policy H9 of the LBBUDP which amongst other things seeks to protect the living conditions of residents of adjoining properties.

Other Matters

10. I accept there would be no harm to the living conditions of the occupiers of No 236. This would however be a neutral factor. Conditions relating to landscaping details and boundary treatment would not be sufficient to mitigate the harm identified.

11. The appellant has drawn my attention to a planning permission and enforcement investigation in the immediate area. However, no details have been submitted and I therefore afford these matters little weight. In any event, each case should be considered on its own merits.

Conclusion

12. For the reasons set out above, I conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR