
Appeal Decision

Site visit made on 13 November 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 26 November 2019

Appeal Ref: APP/E5330/D/19/3235533
35 Point Hill, London SE10 8QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Richard Lewin against the decision of Royal Borough of Greenwich Council.
 - The application Ref 19/0868/MA, dated 7 April 2019, was refused by notice dated 3 June 2019.
 - The application sought planning permission for the replacement of existing rear conservatory with a single storey rear extension without complying with a condition attached to planning permission Ref 17/3433/HD, dated 4 May 2018.
 - The condition in dispute is No1 which states that: The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below: 17011-35PH-DRW-0001, 17011-35PH-DRW-1001, 17011-35PH-DRW-1002, 17011-35PH-DRW-1003, 17011-35PH-DRW-1004, 17011-35PH-DRW-2001, 17011-35PH-DRW-2002, 17011-35PH-DRW-3001, 17011-35PH-DRW-3002 and 17011-35PH-DRW-8001.
 - The reason given for the condition is: In the interests of good planning and to ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect that varying Condition 1 would have on the living conditions of the occupiers of 33 Point Hill with particular reference to privacy.

Reasons

3. Point Hill falls steeply towards the Thames. The appeal site is an end-of-terrace house at the upper end of a row of four dwellings. The dwellings in the terrace provide accommodation on four floors, each having a basement. The basements of both the appeal site and No 33 Point Hill have habitable rooms to the rear of the dwellings.
4. Due to the ground levels the basements of the properties give out directly onto the rear gardens. The rear facades of the terrace contain windows and the adjacent property, 33 Point Hill, has a terrace at ground floor level, which overlook the rear gardens. No 33 has a large glazed door at basement level,

giving onto a patio. Between the appeal site and No 33 there is a fence which is quite low for the greater part of its length, affording views between the gardens, but is higher close to the rear of the dwellings where the patio is located.

5. Whilst the drawings approved under planning permission Ref 17/3433/HD and secured by Condition 1 show the provision of a staircase allowing access from the basement of the appeal site to the garden, the appellants have constructed a patio with level access from their property, with steps some distance from the rear face of the building to access the garden.
6. The patio, as constructed, is at a significantly higher level than that of No 33 and anyone standing on the patio close to the fence is able to look over into the garden and rear basement room of No 33. They would both be clearly visible from within the basement of No 33, and, in turn, be able to look back into the room. The existing fence does provide some screening between the two properties, but this is insufficient to control overlooking to a reasonable level.
7. There are restricted views of the window in question from further down the garden of the appeal site. However, as any persons looking into No 33 from the new patio would be in very close proximity to the room, the proposal would increase the existing degree of overlooking and the occupiers of No 33's sense of being overlooked.
8. The appellant has proposed that additional fencing or trellising could be provided to increase the screening between the properties. However, higher fencing could have implications for the living conditions of occupiers of No 33, particularly given the change in levels, but, notwithstanding this, I have no details before me in order to consider this matter in further detail.
9. My attention has been drawn to the existence of patios at the bottom of nearby gardens, including No 33, which have views back towards habitable rooms within the row and the balconied terrace on No 33. The appellant considers that these are intrusive on the enjoyment of his property.
10. The site lies within a dense urban area where it is not unusual for rear gardens to be overlooked from the upper windows of surrounding properties and is, to a degree, to be expected. The balconied terrace of No 33 does not directly overlook any habitable rooms within the appeal site, although it overlooks the rear gardens in a similar way to the rear windows of the terrace. These views are, therefore, not harmful to private space.
11. The patios to the bottom of gardens are further away and so the degree of surveillance, and the perception of surveillance would be less than from a patio in such close proximity to the window as that of the appeal proposal. In regard to the patio adjacent to the rear of No 33, this patio is lower and the fence provides a more effective screen. In any event, the existence of these does not justify the harm I have identified.
12. I therefore find that varying the condition to accept the revised works would have an unacceptable effect on the living conditions of the occupiers of 33 Point Hill in that it would result in harmful overlooking. The proposal would therefore be contrary to Policy DH(b) of the Royal Greenwich Local Plan Core Strategy with Detailed Policies (2014) which requires that development does not cause

an unacceptable loss of amenity to adjacent occupiers by reducing the amount of privacy they enjoy.

Other Matters

13. The appellant has drawn my attention to the existence of other patios with level access situated to the rear of neighbouring properties, uphill of their neighbours. However, I have little information on the planning background of these and I have, in any case, determined this appeal on its own merits.
14. The site lies within the West Greenwich Conservation Area (the CA). As such I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. In addition, Paragraph 193 of the Framework requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
15. The patio lies in the rear garden of the site within an area where similar patios are in evidence. The proposed form of the patio would not be dissimilar to these and not out of keeping with either the area or the design of the dwelling. I therefore conclude that the proposal would preserve the prevailing character and appearance of this part of the CA.

Conclusion

16. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

I Dyer

INSPECTOR