
Appeal Decision

Site visit made on 3 December 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 05 December 2019

Appeal Ref: APP/H5960/D/19/3240846

5 Brynmaer Road, London SW11 4EN

- 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 Iain Burke Hamilton against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2019/1949, dated 3 May 2019, was refused by notice dated 16 August 2019.
 - The development proposed is described as new fences to front and rear gardens.
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Decision

1. The appeal is dismissed insofar as it relates to the fence to the front garden, and the fence to the rear garden boundary with 3 Brynmaer Road. The appeal is allowed insofar as it relates to the fence along the rear garden boundary with the back passage, and planning permission is therefore granted for the fence to rear garden at 5 Brynmaer Road, London SW11 4EN, in accordance with the terms of the application, Ref 2019/1949, dated 3 May 2019, and the plans attached to it, so far as is relevant to that part of the development hereby permitted.

Procedural Matters

2. The development has already been carried out. Whilst this has assisted my evaluation of the appeal scheme, I have based my decision on the plans as submitted.
3. The development consists of 3 fences; one to the front garden, and 2 to the rear. Though the 2 to the rear join, each is capable of existing separately, and can thus be severed one from the other. The 3 fences are: the fence to the front garden; the fence to the rear garden boundary with 3 Brynmaer Road; and the fence along the rear garden boundary with the back passage. I note that these 3 fences were individually considered by the Council when it assessed the planning application. I have therefore done the same, and made my decision above on this basis. In view of my reasons below, doing so enables me to issue a split decision.

Main Issues

4. The main issues are the effects of the development on:
 - the character and appearance of the area; and

- the living conditions of neighbours at 3 Brynmaer Road with regard to light and outlook.

Reasons

Character and appearance

5. 5 Brynmaer Road forms part of a long terrace of dwellings which lines the southern side of Brynmaer Road. A similar, but shorter terrace stands opposite. The dwellings within these terraces each have shallow front gardens, almost all of which are enclosed and subdivided by low brick walls with railings. The heights and style of railings varies, with most being relatively low in height. Though more substantial railings do also occur, these present an exception rather than the rule, and where vegetation, including hedging, is present, this does not generally disturb the prevailing pattern of front boundary enclosure. As such there is strong, and distinctive sense of consistency within the streetscene.
6. Whilst high brick walls, sometimes topped by trellising, do also occur within the broader streetscene, this is normally in the context of enclosing the sides and backs of dwellings where they are exposed adjacent to junctions. As such this does not affect the consistency of character along the frontage noted above.
7. The timber panel erected at the front of the dwelling along the boundary between No 5 and No 3, finds no direct comparison with other front boundary treatments within Brynmaer Road. For this reason, it is obviously inconsistent with the prevailing character of the street. Given its prominent position at the front of the dwelling, it is highly conspicuous within the streetscene. The visual incongruity of the panel is accentuated by its height, form and positioning relative to other existing boundary features of lesser height, including the gate posts and railings.
8. Even taking into account the fact that the railings at No 3 are greater in height than average, and that the panel is similar in height to the front gate at No 3, this does not alter the fact that the height, relative solidity and materials from which it is made otherwise clearly differ. Set against the high level of consistency within the streetscene, the panel causes an unacceptable degree of visual harm.
9. I accept that examples of panels similar to that erected at No 5 can be found in other nearby streets. However, I cannot be certain of the lawfulness of these panels, and, in any case, the presence of panels within other streets has little direct bearing on the character of Brynmaer Road, or therefore the acceptability of the fence erected in the front garden of No 5.
10. With the exception of the side wall serving the back garden of 1 Brynmaer Road, the rear boundaries of the terrace are not generally visible within the streetscene. Furthermore, as no public access exists to the rear of the terrace, these boundaries play little role in the perceived character of the area.
11. Boundary treatments to the rear of the terrace generally appear to consist of masonry walls, sometimes topped by trellises or fencing of various type, the combined heights of which varies. Indeed, even without additions, the walls which define the back garden on No 5 are of varied height. The character of rear boundary enclosure is therefore inconsistent.

12. In this regard, the fencing erected along the rear boundary of No 5 appears to be little different in height to that of boundary treatments erected along the back of adjoining plots. Its height does not therefore appear at odds with its setting. The fence erected above the boundary wall with No 3 brings the boundary to a similar height as that to the rear. Though this is both higher than the boundary treatment between No 5 and 7 Brynmaer Road, and also appears higher than that between No 5 and 1 Brynmaer Road, any effect this has on the broader character of the area is negligible.
13. For the reasons outlined above I conclude that the fence to the front garden has an unacceptable impact on the character and appearance of the area, but that those erected in the rear garden do not. The fence erected to front therefore conflicts with Policy PL1 of the Wandsworth Local Plan Core Strategy Adopted March 2016 (the CS), which amongst other things seeks to promote the local distinctiveness of the neighbourhoods which make up the Borough; Policy IS3 of the CS, which similarly seeks to protect and reinforce the character of the Borough; Policy DMS1 of the Wandsworth Local Plan Development Management Policies Document Adopted March 2016 (the DMP), which amongst other things requires the scale of development to contribute positively to local spatial character; Policy DMH5 of the DMP, insofar as the design has not taken appropriate account of the design of the front garden; supporting guidance in the Housing Supplementary Planning Document Adopted November 2016 (the SPD); and relevant design-related provisions in set out within the National Planning Policy Framework (the Framework).

Living conditions

14. The Council partly refused planning permission on the basis of a failure to demonstrate that the fence along the boundary with No 3 would not have an unacceptable impact on daylight. The occupant of No 3 has additionally raised concern regarding sunlight. The appellant has accordingly submitted a lighting report (LR) with the appeal which addresses each.
15. Though the rear elevation of the dwellings within the terrace face towards the south, the area was generally subject to quite heavy shading during my visit. This was due to a combination of the low winter sun, and the density of surrounding development. When also taking into account the very small size of the back gardens to the rear of the terrace, some obstruction of daylight and sunlight can be expected year-round. In consequence of this, sensitivity to any further loss of light as a result of new development is correspondingly increased.
16. Even taking into account the height to which the boundary between No 5 and No 3 could be raised without planning permission, the LR confirms the existence of an adverse effect on No 3 in relation to sunlight. I see no reason to reach a different view. In this regard the character of the surrounding context outlined above does not provide justification for the harm that loss of sunlight would cause at times of the year when the back gardens receive sunshine. Neither does the fact that the occupant of No 3 could visit a public park instead of using their back garden, given the functions and privacy of the spaces in question are entirely different. The adverse impact is unacceptable.
17. The LR finds no unacceptably adverse effect on daylight reaching the interior of No 3. Again, I see no reason to disagree. This does not however make the effect on sunlight any more acceptable.

18. The height of the fence between No 5 and No 3 is similar to that at the back of the two gardens. Notwithstanding both the small size of the garden spaces enclosed, and the loss of sunlight noted above, it is no more overbearing. On this basis I find that its effects on the outlook of occupants at No 3 is acceptable.
19. The appellant makes the point that the height of the masonry wall between No 5 and No 3 is too low to protect privacy. However, privacy could also be improved by use of a boundary treatment of lower height, whose impact on sunlight would be less than that installed. This is indeed confirmed by the LR.
20. I also note reference to the Council's approval of a boundary treatment in Ellerton Road. However, the extent of any similarity between the effects of this boundary, and those of the fence erected between No 3 and No 5, is unclear. This approval has not therefore altered my opinion of the appeal scheme.
21. For the reasons outlined above I conclude that the fence to the rear garden boundary with No 3 would not have an unacceptably harmful effect on the living conditions of occupants at No 3 in relation to daylight and outlook. The effects in relation to sunlight would however be unacceptable. The fence to the rear garden boundary with No 3 therefore conflicts with Policy DMS1 of DMP which requires that development does not harm the amenity of occupiers of nearby properties; and supporting guidance set out in the SPD.

Other Matters

22. The appellant has raised security concerns in relation to the fencing installed. Whilst it seems unlikely that the fencing erected along the back passage would prevent an individual from entering the garden of No 5, it would at least serve as a deterrent. Fencing to the front and along the boundary with No 3, however provides no obvious security value. These two fences cannot therefore be reasonably justified on the basis of security.
23. The fact that Battersea Park Conservation Area lies near to the site is noted within the Council's officer report. It was not however a reason for refusal. In this regard I see no grounds to disagree with the Council's assessment that the development does not harm the setting of this designated heritage asset.
24. I note the comments of the Council's enforcement officer. These however pre-date submission of the planning application. Whilst they did not affect the Council's decision, they similarly do not alter my view of the appeal scheme.

Conclusion

25. Whilst I have found that unacceptable harm would arise in relation to the fence to the front garden, and the fence to the rear garden boundary with 3 Brynmaer Road, no unacceptable harm would arise in relation to the fence along the rear garden boundary with the back passage. For the reasons outlined above I therefore conclude that the appeal should be allowed insofar as it relates to the fence along the rear garden boundary with the back passage, but dismissed insofar as it relates to the fence to the front garden, and the fence to the rear garden boundary with 3 Brynmaer Road.

Benjamin Webb

INSPECTOR