



Appeal Decision

Site visit made on 28 January 2020

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2020

Appeal Ref: APP/T5720/D/19/3239518

21 Linkway, Raynes Park, London SW20 9AT

- 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 Mrs Kerrie Agyarko against the decision of the Council of the London Borough of Merton.
 - The application Ref 19/P2807, dated 30 July 2019, was refused by notice dated 30 September 2019.
 - The development proposed is retention of existing decking area in rear garden.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development provided on the planning application form has been replaced by an amended version on the decision notice and in subsequent appeal documents. I consider that subsequent description to be more accurate and I have therefore used it within this decision.
3. At the time of my site visit I saw that the development had commenced and appeared to be substantially complete.
4. The name of the appellant differs between that given on the planning application form and planning appeal form. It has been confirmed that the name given on the appeal form is the appellant's marital name and I have therefore used it within this decision.
5. During the course of the appeal it became apparent that the correct notification had not been undertaken in respect of the appeal. The Council were subsequently requested to undertake the correct notification process and I am satisfied that this has been done.
6. I was requested to view the appeal site from the neighbouring property of 19 Linkway and I was able to do so at my site visit.

Main Issue

7. The main issue in this appeal is the effect of the proposal on the living conditions of neighbouring occupiers with regards to privacy and outlook.

Reasons

8. The decking is located to the rear of a conservatory which has been constructed to the back of the host building. The rear gardens of the appeal site and the neighbouring properties drop down to the rear and due to this arrangement the decking and associated stairs provide an elevated view of the neighbouring property of 19 Linkway.
9. I saw that the elevated view provided from the decking and stairs and the proximity to the boundary will lead to an intrusive degree of overlooking of the garden area of No 19 extending to the rear. I also saw that the decking enabled a view back towards the patio and rear elevation, including patio doors, of No 19 and whilst this view was restricted it added to the perception of being overlooked.
10. Although the decking is of a limited depth, I consider that people traversing the decking and other activity would be readily apparent to residents of No 19 to an intrusive degree, even if it is of a transient nature. This would be exacerbated when the bifold doors of the conservatory are open thereby enabling activity within the conservatory to extend onto the decking.
11. A fence has been erected along the boundary with No 19 in an attempt to prevent overlooking. However, I saw that the fence as erected was of limited effect as it includes open slats at the top which allow a view onto No 19. In any event, this did not mitigate intrusive views of the garden area of No 19 extending further to the rear. If a higher fence of a greater length was used I consider that this would be an overbearing feature due to its increasing height to the rear and the degree of projection, which would be detrimental to the outlook of residents from the rear of No 19. Whilst this may not lead to undue harm in terms of loss of light, this does not outweigh my conclusions in respect of harm to outlook.
12. The appellant refers to a raised area to the rear of the host building which existed prior to the erection of the conservatory and decking, and which she suggests also affected the privacy of No 19. However, it has not been demonstrated that this pre-existing situation was of the same scale and arrangement as the appeal proposal, including matters such as site levels and the degree of projection to the rear. Consideration of this matter does not therefore lead me to a different conclusion in respect of the harm arising from the appeal proposal.
13. Reference has also been made to planning permissions for decking issued elsewhere within the Council's area. However, I have not been provided with full details of these proposals and so cannot be certain that they represent a direct parallel to the appeal before me, including in respect of site levels, boundary treatment and permitted development rights. In any event I have determined this appeal on its own merits.
14. I am mindful that removal of the decking is likely to hinder access to the conservatory. However, this matter does not outweigh the harm that I have identified to the living conditions of neighbouring residents.
15. I conclude that due to its design and location that the proposal will lead to unacceptable harm to the living conditions of residents of No 19 with regards to privacy and outlook. The proposal is therefore contrary to Policies CS.14 of the

Core Planning Strategy 2011, DM D2 of the Sites and Policies Plan 2014, and Policies 7.4 and 7.6 of the London Plan which together seek to prevent unacceptable harm to the amenity and function of surrounding land and spaces as well as ensuring that people feel comfortable with their surroundings.

16. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR