



Appeal Decision

Site visit made on 22 January 2021

by Michael J Muston BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2021.

Appeal Ref: APP/D5120/D/20/3258944 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 Mr K Singh against the decision of the Council of the London Borough of Bexley.
 - The application Ref 19/02706/FUL, dated 5 November 2019, was refused by notice dated 19 August 2020.
 - The development proposed was originally described as *"This is a work in progress - The steep land dropping from the rear of the dwelling recently cleared of undergrowth to allow for its usability, however in the process of terracing the garden the drop in levels was such as to necessitate the construction of a mid-point retaining wall. Also in flattening the far section a high plateau relative to No. 240's rear garden was created. This rear section of land is similarly retained by a retaining wall proposed to be overlain by a close boarded timber boundary. It is intended to dig this section of the garden out, reducing the height by approximately 2.12m. This is shown the amended drawing 1816:SK:A1:05 which indicates how it is intended the land levels would be graduated with installation of a series of steps and the removal of the breeze block mid-point retaining wall. Moreover the reduction in the land level at the rear of the garden will allow for the rear fence line at No. 236 and 240 to be continued at a similar height. the works will allow for the garden to blend in with those of the immediate neighbouring properties, thereby dispensing the stark contrast."*
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Decision

1. The appeal is allowed and planning permission is granted for the retention of alterations to ground levels and partial retention of retaining walls, the provision of new/altered retaining walls, boundary fencing, construction of steps and terracing of the rear garden with associated planting, including excavation works, at 238 Woolwich Road, London SE2 0DW, in accordance with the terms of the application, Ref 19/02706/FUL, dated 5 November 2019, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 051018/topo, 1816:SK:A1:04, 1816:SK:A2:01 (received 27/03/2020) and 1816:SK:A0:16 Rev. A (received 10/06/2020).
 - 2) All exposed surfaces of the retaining walls shall be painted RAL 9001 (cream) in colour, or such other colour as may be agreed in writing with the local planning authority.
 - 3) Within one calendar month of the date of this decision, a timetable, demonstrating how the works will be carried out in full, within a four month period immediately following the approval of that timetable, shall

be submitted for the written approval of the local planning authority. The approved scheme shall then be carried out and completed in accordance with the approved timetable.

Procedural Matter

2. The development was described on the application form as set out in the heading above. This was amended by the Council, to "*Retention of alterations to ground levels and partial retention of retaining walls. Provision of new/altered retaining walls, boundary fencing, construction of steps and terracing of the rear garden with associated planting, including excavation works.*". This is also the description used by the appellant on his appeal form, and describes the works more succinctly than the original description. I have therefore used this amended description as the basis for my decision.

Main Issues

3. The main issues are the effect of the proposed development on:-
 - the character and appearance of the area; and
 - the living conditions of occupiers of adjacent dwellings, with particular regard to overbearing impact and visual intrusion.

Reasons

Character and appearance

4. A previous appeal (APP/D5120/D/19/3233845) in relation to development in the garden of this property was dismissed in 2019, with the Inspector noting that the works, some of which had already taken place, resulted in a platform that sat much higher than the neighbouring garden of No 240 and the level of the adjacent woodland. That Inspector concluded that, by reason of its material and height, it formed "*a particularly prominent and visually intrusive feature both when viewed from the neighbouring garden and the woodland*".
5. The current appeal proposal is essentially a modification of the scheme dismissed in that 2019 appeal. The proposal now includes a reduction in the height of the retaining walls around the platform, and the erection of a 2.4 metre high close-boarded fence along the common boundaries with No 240 and with Lesnes Abbey Woods to the rear. This fence would be visible from both the neighbouring garden and the woods to the rear. Other examples of close-boarded fencing can already be seen from both these viewpoints and, although higher than these, the proposed fencing would not look out of place in its context. Once the platform is reduced in height to the levels proposed, the fence would screen it from view. The amendments proposed in this appeal proposal would avoid the harm caused by the previous appeal proposal.
6. I conclude that the proposal would not have an unacceptably adverse effect on the character or appearance of the area, and would comply with Policy ENV39 of the London Borough of Bexley Unitary Development Plan (2004) (UDP) in this respect. This policy seeks, amongst other things, development that is compatible with the character of the surrounding area.

Living conditions

7. The Council considers that the retaining walls would have an unduly overbearing and visually intrusive impact on the occupiers of No 240, when using their rear garden. However, I agree with the Council officer's report to Committee that the proposals to lower the platform and erect a higher fence on the boundary would obscure views of the retaining walls.
8. The reduction in the level of the platform close to the boundary with No 240, and the erection of the proposed 2.4 metre high fencing along the common boundary would remove the vast majority of the overlooking from the platform over the neighbouring garden. It would leave some overlooking of No 240's garden, but no more than exists in many adjoining gardens located on a slope. I agree with the Inspector in the previous appeal that "*there would be no harm to the living conditions of the occupiers of No 236*".
9. I conclude that the proposal would not have an unacceptably adverse effect on the living conditions of occupiers of adjacent dwellings, and would comply with Policy ENV39 of the UDP in this respect. This policy seeks, amongst other things, development that would not prejudice the environment of the occupiers of adjacent property.

Conditions

10. As well as a standard condition requiring compliance with the approved plans, the Council has also suggested a condition requiring all exposed surfaces of the retaining walls to be painted RAL 9001 (cream) in colour. I agree that a condition along these lines is necessary, in the interests of the character and appearance of the area, in the event that any of the retaining wall is still visible from outside the site. However, there are other colours that would be acceptable beyond cream, and I have added a clause to allow an alternative to be agreed if appropriate.
11. The Council is also suggesting a condition that requires the agreement of a timetable within which works must be completed, failing which the permission would effectively cease to have effect. I agree with the need to require the agreement of a timetable to secure the completion of the works contained within the appeal proposal. However, the other suggested elements of condition 2 do not meet the test of being reasonable. If the works are not completed in time, the Council could serve a breach of condition notice. or continue with enforcement action against those elements of the previously refused scheme that remain on site. I have therefore imposed an amended version of that suggested condition.

Conclusions

12. For the reasons set out above, I conclude that the appeal should be allowed, subject to the conditions set out above.

Michael J Muston

INSPECTOR