



Appeal Decision

Site visit made on 15 February 2021

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2021

Appeal Ref: APP/G5180/D/20/3264969

59 Warren Avenue, Bromley, BR1 4BP

- 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 John Smith against the decision of London Borough of Bromley
 - The application Ref DC/20/03647/FULL6, dated 13 September 2020, was refused by notice dated 13 November 2020
 - The development proposed is 'Extension of existing rear patio area'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was amended following submission of the application to "*Retention of extended raised patio to rear*" to reflect that the proposal is retrospective. As 'retention' is not development¹, I have utilised the original description for the purposes of the appeal.
3. The London Plan 2021 (LP 2021) was published on 1 March 2020 and is now part of the development plan. I invited the main parties for the appeal to express their views on the LP 2021, as it relates to the appeal.
4. The development proposed has been partially completed. The raised patio includes large brick piers with lighting, a double-skin dwarf wall and a new timber fence with trellis along the boundary with no.61 Warren Avenue. Three substantial fence posts are taller than the new fence panels and would support either a taller fence or another substantial structure. These elements are not shown on the proposed plans. I have assessed this appeal in accordance with the proposed plans only.

Main Issues

5. The main issues are the effect of the proposal on the living conditions of occupiers of neighbouring properties, specifically nos. 57 and 61 Warren Avenue.

Reasons

¹ As defined by Section 55 of the Town and Country Planning Act 1990 (as amended)

6. The appeal site is a semi-detached dwelling. Works are underway to construct a rear extension and as such, the rear elevation of the appeal site projects beyond of the rear elevation of no. 61 Warren Avenue, the other dwelling in the semi-detached pair, as well as no.57 adjacent. The topography at the appeal site and surrounding area is varied; the ground level is higher towards the dwellings and falls away towards the end of the rear gardens.
7. The combination of topography, forward siting, distance from the boundary and the existing boundary treatments of fence panels and landscaping prevent any direct overlooking, overbearing or overshadowing of the private rear garden of no. 57. It is possible to see the shed at the very end of no. 57's rear garden from the patio, however, it is also visible from the existing garden path at lower level, reflecting the limited degree of mutual overlooking which occurs in such residential arrangements when topography is varied.
8. The raised patio abuts the boundary with no.61. The relative ground levels and new fence prevent any overlooking of the furthest end of its garden. However, even with the new timber fence, it is possible to overlook the area of the garden closest to the house. This area of garden is the most functional area of the garden and thus it is important to maintain its privacy. Taller boundary treatments to maintain that privacy would likely have an overshadowing and overbearing impact. There is no evidence before me to demonstrate that it was possible to see this area of garden to the same extent prior to the construction of the raised patio. Although the existing plans show a small projection from the rear elevation, it would not facilitate the same kind of prolonged overlooking which would be afforded by the raised patio, which allows for sitting out and looking backwards towards the rear elevation of no. 61. As such, the proposal would result in an unacceptable loss of privacy to no. 61.
9. The use of the raised patio is unlikely to create any greater noise and disturbance to neighbouring occupiers than the ordinary use of the garden.
10. No.61 has a raised patio which appears very well established and according to the Appellant, no. 63 Warren Avenue also has a raised patio; though I have no details of it and there is no planning record. I have assessed the proposed patio on its individual merits.
11. The proposed raised patio would have an unacceptable adverse effect on the living conditions of occupiers of no.61 Warren Avenue, contrary to policy 37 of the Bromley Local Plan. This policy seeks, amongst other things, good design which respects the amenity of occupiers of neighbouring buildings.

Conclusion

12. For the reasons stated above, I find that the appeal proposal conflicts with the relevant policies of the Development Plan and therefore, the appeal is dismissed.

Kim Langford Tejrar

INSPECTOR