



Appeal Decision

Site visit made on 9 March 2021

by Conor Rafferty LLB (Hons), Solicitor

Decision by R C Kirby BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2021

Appeal Ref: APP/G5180/D/20/3263708

10 Gowland Place, Beckenham BR3 4HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Aidan Laverty against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/02069/FULL6, dated 4 June 2020 was refused by notice dated 15 September 2020.
 - The development proposed is described as "retrospective planning permission for first floor wooden roof terrace over kitchen/ bathroom at the rear of the property".
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The development has already been constructed. I have considered the appeal on the basis that planning permission is sought for the development that has already been carried out.

Main Issue

4. The main issues are the effect of the development on (i) the living conditions of neighbouring residents, with particular regard to privacy; and (ii) the character and appearance of the host dwelling and surrounding area.

Reasons for the Recommendation

Living conditions

5. The appeal site is a mid-terraced dwelling with a single storey rear extension upon which the roof terrace has been created. Properties on the street have small rear yards, backing immediately on to similar spaces along Yew Tree Road, creating a tightly packed area of development.
6. The elevated nature of the roof terrace allows direct views into nearby properties rear yards, and the close relationship of neighbouring ground, and first floor rear windows and doors as a result of the use of the area is likely to

have significantly reduced the privacy of the outside space and rooms that the windows and doors serve. Consequently, nearby occupiers are likely to have had their enjoyment of their properties significantly eroded.

7. I acknowledge that in built up environments such as this there is a degree of mutual overlooking. However the use of the roof terrace for sitting out on, dining and entertaining is likely to have a significantly more harmful effect on the privacy of nearby occupiers, compared to somebody stood in a first floor window, the existing first floor door, or small decked area for example. This is because the use of the roof terrace would be for prolonged periods of time, particularly during good weather when nearby occupiers are likely to be spending time within their outside space also.
8. The open nature of the balustrading and low level of planting does not provide adequate screening to combat the harm identified and whilst an obscured screen could be installed, to be effective it would need to be considerable in height, such that it would appear oppressive when viewed from the site and neighbouring plots.
9. For all of these reasons I find that the development has a significantly adverse effect on the living conditions of neighbouring residents, with particular regard to privacy. Accordingly, the development fails to comply with Policies 6 and 37 of the London Borough of Bromley Local Development Framework Local Plan Planning Division January 2019 (the Local Plan) and the Adopted Supplementary Planning Guidance No. 2 Residential Design Guide (the SPG) which seek to ensure that development respects the amenity of occupiers of neighbouring buildings.

Character and appearance

10. From a visual perspective, the development is modest in scale, retains the flat roof form and cannot be viewed from the public realm. However, it is highly visible from the rear of properties along Yew Tree Road and Gowland Place, where it introduces an incongruous feature to the immediate setting.
11. The permanent wooden balustrading and decking in its raised location is a conspicuous feature, failing to reflect the style of the host property and the prevailing character of the immediate area. It also signals the presence of the terrace, setting the dwelling apart from neighbouring properties against which it is experienced, that largely do not have this feature.
12. While there are examples of roof terraces visible from the site, I do not have conclusive details on their planning status or circumstances of their approval to make direct comparisons. Even in the event these terraces benefit from permission, they are largely consistent in the use of metal railings and the proposal visually differs due to the nature of its balustrading. Such visual difference would also remain if an obscure screen was installed.
13. For all of these reasons I find that the development has a significantly adverse visual effect on the character and appearance of the host building and the surrounding area. Accordingly, it fails to comply with Policies 6 and 37 of the Local Plan and the SPG which seek to ensure a high standard of design that is compatible with the surrounding area.

Other matters

14. The personal circumstances of the appellant are acknowledged, whereby money has been invested to provide amenity space for health and wellbeing reasons due to home working and pre-existing conditions. These are matters which weigh in favour of allowing the development. In considering this matter, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's disability.
15. In respect of the above, this must be weighed against my conclusion on the main issues which is that the proposal would have a significantly adverse impact upon the living conditions of nearby occupiers and the character and appearance of the area. In this case, a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that significant harm is not caused to these matters. Indeed, the protection of the public interest cannot be achieved by means that are less interfering of the human rights of the family member. Therefore, while I acknowledge the personal circumstances of the appellant, I conclude that these are not matters which outweigh the harm that is caused by the development.
16. The appellant has stated the work was carried out in the belief that planning permission was not required. Be that as it may, planning permission is required, and I am required to assess the proposal against the policies of the development plan.
17. The appellant's frustrations with regards to the lack of communication from the Council are also acknowledged. However, this does not affect my considerations of the planning merits of this case.

Conclusion and Recommendation

18. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore recommend that the appeal is dismissed.

C Rafferty

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree that the appeal should be dismissed.

RC Kirby

INSPECTOR