The Planning Inspectorate

Appeal Decision

Site visit made on 10 August 2021

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2021

Appeal Ref: APP/M3645/D/21/3273699
14 Buxton Lane, Caterham, CR3 5HD

- 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 Sivagowri Ramashrishnalal against the decision of Tandridge District Council.
- The application Ref TA/2020/1789, dated 30 September 2020, was refused by notice dated 18 February 2021.
- The development proposed is the erection of a tree house in rear garden.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a tree house in rear garden at 14 Buxton Lane, Caterham, CR3 5HD in accordance with the terms of the application, Ref TA/2020/1789, dated 30 September 2020, subject to the following conditions:

    1. The tree house hereby permitted shall be in place for a limited period, being the period of not greater than 3 years from the date of this decision, within which time all built elements of the structure shall be completely removed.

    2. During the temporary period the development is in place it shall accord with the following approved plans:002B, 003 & the location plan.

Preliminary Matter

2. The development is completed; this does not alter the way I consider the merits of the proposal.

Main Issue

3. The main issue is the effect of the proposal on the living conditions for neighbours.

Reasons

Living conditions

4. The sawn timber appeal structure with timber access steps is affixed to a very large tree within the sizeable rear garden of the host property which lies within an established residential area of generally spacious character. The disposition

of rear gardens, because of the proximity of a road junction, leads to a number from Matlock Road having their rear garden boundary along the side boundary with the appeal site at right angles. There is thus not the full back-to-back relationship which is more generally the case where gardens abut. A number of residents, not all, are concerned that this relationship results in loss of amenity including overlooking and the Council has refused the scheme on this specific point.

5. I observed that the structure is clearly intended for young children's play purposes. This is because it has a very small entrance hatch, no significant area of decking for sitting, a lack of any very substantial structure, minimal weather-proofing, and limited scope for direct sunlight or wide outlook. Such use by young children would align with the case put by the Appellant.

6. At the time of my visit boundary vegetation was substantial and provides good screening or, at minimum, visual filtering and the timber structure has a degree of subtlety in this context. During summer months when, realistically, the tree house will be most likely used for play the mainly deciduous boundary vegetation will mitigate direct overlooking in my opinion, and it may be that engrossed with playing games there is no interest in wider surrounds in any event.

7. In my mind I see this as a piece of play equipment comparable to those that come and then go, find favour then wane, with the passage of time and children ageing. This is such as is apparent in many families' rear gardens albeit more often in the form of slides, or swings, or trampolines and so forth. I appreciate the fears expressed that children become teenagers and activities can change radically as families develop. I am not sure older children or other people would or could be drawn to this structure. However I could not say this for sure and I do recognise that concerns over future loss of amenity through for example, more intense wishes to invade privacy, or noise and disturbance, or changes through time in boundary planting, any of which could be troubling for neighbours. To this end, and to tie with the Appellant's stated aim of this structure being a play feature for young children, I would deem it necessary to restrict the life-span of this tree house to three years. I shall apply a planning condition accordingly.

8. In these circumstances I conclude that the proposal, on a temporary basis, would not run contrary to policies DP7 of the Tandridge Local Plan Part 2: Detailed Policies and CSP18 of the Tandridge District Core Strategy which, amongst other matters, are both concerned with the protection of amenity within a neighbourhood.

Conditions

9. The proposal is retrospective but I agree with the Council's suggestion to tie it to submitted plans to provide certainty; albeit the standard condition requires some modification for complete relevance.

10. I explain my thinking on a temporary condition above and shall apply this in the interests of residential amenity. The Appellant accepts the principle of this condition whilst the Council considers it does not address the issue; I use my planning judgement on this point.

Overall conclusion

11. For the reasons given above I conclude that the appeal proposal, conditioned as above, would not have unacceptable adverse effects on living conditions for neighbours. Accordingly, the appeal is allowed.

D Cramond

INSPECTOR