



Appeal Decision

Site visit made on 17 February 2022

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th March 2022

Appeal Ref: APP/G5180/D/21/3281275

25 Grove Vale, Chislehurst BR7 5DS

- 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 Yavuz against the decision of the London Borough of Bromley.
 - The application Ref DC/21/00897/FULL6, dated 23 February 2021, was refused by notice dated 27 July 2021.
 - The development proposed is a children's activity frame and swings.
-

Decision

1. The appeal is allowed, and planning permission is granted for a children's activity frame and swings at 25 Grove Vale, Chislehurst BR7 5DS in accordance with the terms of the application, Ref DC/21/00897/FULL6, dated 23 February 2021, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 2105_01-00; 2105_02-03 A; 2105_02-04 A and 2105_02-05 A.
 - 2) Unless the approved scheme is implemented within 3 months of this approval, the use of the children's activity frame and swings shall cease, and all equipment and materials brought onto the land for the purposes of such use shall be removed.
 - 3) The 6 screening trees shall be retained and if any one of the screening trees (or any tree planted in replacement of them) is removed, uprooted, destroyed, dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree.

Applications for costs

2. An application for costs has been made by Mr Yavuz against the London Borough of Bromley. This application is the subject of a separate Decision.

Procedural Matters

3. The proposed development is partly retrospective. The activity frame and swings (play equipment) have already been erected. However, the proposed development also includes amendments to the play equipment. These amendments were made during the planning process with amended drawings

and were referenced in the Council's committee report. I have therefore determined the appeal accordingly.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the living conditions of the occupants of 7 and 9 Selby Close in relation to privacy.

Reasons

5. Grove Vale is a road of predominantly two-storey, detached properties built closely together. The properties are generally similar in size and age with relatively long gardens and mature trees along the rear boundaries. The appeal property is broadly central on Grove Vale and its rear garden, along with its neighbours, back onto the gardens of properties on Selby Close. These properties are also detached and two-storey, however their gardens are generally shorter and squarer in form. Unusually for a suburban area most boundary treatments between the rear gardens are relatively low with a high level of intervisibility between the outdoor spaces. This is the case for the appeal property, the properties on either side and the 2 properties to the rear, 7 and 9 Selby Close.
6. The play equipment is located close to the rear boundary of the appeal site and 6 screening trees have been planted, however these appeared to be in a poor state of health when the site was visited. Currently the 2 towers are linked by bridges and a platform, all of which are above the existing boundary fence height. This allows any users of the play equipment unfettered views over the gardens of Nos 7 and 9. On visiting the site, I noted that users of the play equipment cannot see into the windows of either property. However, on visiting No 7 it was evident there are views from the ground floor windows of the play equipment, thus creating a perception of overlooking for the occupants of that property.
7. The proposed amendments would remove the middle platform severing the link between the 2 towers and introduce panelling to the upper parts of both towers. Due to the setback location of the larger tower from the shared boundary with Nos 7 and 9, the position of the lowered access bridge behind a large, mature oak tree (protected by Tree Preservation Order) and the screening trees, and the proposed panelling, it is considered this element of the play equipment would no longer create overlooking issues.
8. The slide tower and its access bridge run parallel to the rear boundary of the appeal site. The proposed panelling would mitigate any direct overlooking of Nos 7 and 9's gardens from the slide tower. The reduction in height of the access bridge would mean it would be partially screened by the shed in No 7's garden. The screening trees, once established, would further obscure views from the access bridge. It is therefore considered that the proposed amendments would reduce the overlooking of Nos 7 and 9 should the screening trees be maintained, to a level comparable to that existing at ground level. The maintenance of the screening trees can be secured by condition.
9. It is noted that at committee the prominence of the play equipment in views from No 7 was discussed. This does not alter my findings, as the play equipment is domestic in scale and the proposal would be adequately screened.

10. Interested parties stated that the play equipment could be easily moved away from the rear boundary, the towers should be reduced to ground level and there are discrepancies with the measurements. The subject of the appeal is the proposed scheme which differs from the 'as built' scheme and that which is currently existing on site. To that effect I have considered the above concerns and they have not altered my findings. Representations relating to the quality of the proposed screening trees and adults using the equipment are noted. However, the retention and replacement of the screening trees, as shown on the proposed plans, would mitigate this and can be conditioned.
11. In conclusion, therefore, the proposed development would not harm the living conditions of the occupants of 7 and 9 Selby Close in relation to privacy, and it would comply with policy 37 of the Bromley Local Plan (2019), insofar as it relates to living conditions.

Conditions

12. Along with the adherence to approved plans, I have imposed a condition relating to the timely implementation of the proposed amendments given the partly retrospective nature of the proposal. It is also necessary to secure the retention and maintenance of the screening trees. Both these conditions were suggested by the Council and the appellant has been able to consider them accordingly. The Council also suggested a matching materials condition. This is not considered necessary due to the partly retrospective nature of the proposal and the specification of materials on the plans.

Conclusion

13. For the reasons given above, having considered the development plan as a whole along with all other relevant material considerations including the approach in the National Planning Policy Framework (published July 2021) I conclude that the appeal should be allowed.

RJ Redford

INSPECTOR