



Appeal Decision

Site visit made on 15 August 2022

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th September 2022

Appeal Ref: APP/W5780/D/22/3300881

63 Whitehall Lane, Buckhurst Hill, London, IG9 5JG

- 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 and Mrs Owusu-Sem against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 0287/22, dated 8 March 2022, was refused by notice dated 29 April 2022.
 - The development proposed is described as a 'Erection of raised patio at rear (part retrospective)'.
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Decision

1. The appeal is allowed and planning permission is granted for a raised patio (retrospective) at 63 Whitehall Lane, Buckhurst Hill, London, IG9 5JG in accordance with the terms of the application, Ref 0287/22, dated 8 March 2022, subject to conditions at the end of this decision.

Preliminary matter

2. The Council's decision describes the proposal as a 'Raised patio. Retrospective.' I saw at my visit that the patio has been constructed but the planting has not been completed. I have therefore considered the appeal on this basis and included that description in the formal decision above.

Reasons

3. The main issue in this appeal is the effect of the proposed development on the living conditions of the neighbouring occupiers with regard to privacy.
4. The appeal site is located on a sloping road within a residential area and comprises a modern, linked detached house of two storeys in a row of five similar houses which back onto the parking court of a nearby block of flats. It has a recently built single storey extension to the rear, allowed by the Council under prior approval. The houses on either side are of a similar design. Ground levels drop away from the houses towards the rear boundaries. The appellant's aerial view shows that each of the houses has a patio adjacent to the house and it is clear that those at nos 59 and 61 are raised patios which also extend across the full width of the properties.
5. This patio is deeper than those and occupies most of the rear garden. Although the application did not include elevation and cross section drawings, I noted at my visit that it is set one step down from the rear elevation and projects some 6m from the house, extending across the full width of the

property between each of the side boundaries with a width of around 9m where it adjoins the house. It then steps away from the common boundaries after 2.9m with no 61 and after 3.34m with no 65 around areas that are proposed for the planting of 2m high shrubs. There is stepped access down to the rear part of the garden and the patio has been constructed from high quality materials.

6. I saw that the neighbouring dwelling at no 65 has patio areas adjoining its rear elevation and adjoining its side boundary with no 67 which appear to be well used with a reasonable level of privacy from no 67. However, it is sited on higher ground than the appeal dwelling due to the gradient of the road and its rear garden is sited at a very slightly higher ground level than the patio at the appeal site. The side boundary fence that separates the properties is less than 1.8m in height and enables very clear views from the patio at the appeal site of the neighbouring patio at no 65. Whilst there is already some overlooking from the first floor windows of the appeal dwelling, the new patio has resulted in a significant amount of additional overlooking and loss of privacy for the neighbouring occupiers at no 65.
7. On the other side, the neighbouring property at no 61 is sited at a lower ground level and although there is a boundary fence with trellis on top, at my site visit I noted that some overlooking towards the patio at that property is also possible from part of the new patio.
8. As these are not large gardens with little choice in where to site a patio and the neighbours' patio areas at nos 61 and 65 are well used, I find that the new patio at the appeal site has significantly harmed the living conditions of those occupiers.
9. The appellant has suggested a condition for details of privacy screens of 1.8m in height adjacent to each common boundary. The Council was given the opportunity to comment on that but no response was received. A condition to this effect would overcome my concerns regarding this matter and is necessary to make the development acceptable.
10. I conclude then that subject to the condition referred to above, the proposal would not cause significant harm to the living conditions of the neighbouring occupiers at nos 61 and 65 Whitehall Lane. It would accord with LP policies 26 and 30 in the Redbridge Local Plan (2018) (LP) which together seek to ensure, amongst other things, that developments respect the privacy and do not adversely impact the amenity of neighbouring occupiers.

Other matter

11. Although the appellant has addressed the effect of the patio on the character and appearance of the area, the Council's decision refers only to the effect on neighbouring amenities and I am satisfied that given the other similar patios in the vicinity and the proposed planting which would soften its visual impact, it would not harm the character or appearance of the dwelling or the area and would accord with LP policies 26 and 30 in this regard.

Conditions

12. As the development has been substantially built, the standard commencement condition is unnecessary but a condition is necessary to ensure that the proposed planting is carried out in accordance with the approved plans in order

to provide certainty, in the interests of the character and appearance of the dwelling and the area and to ensure adequate drainage.

13. Condition no 2) is imposed to ensure that privacy screen details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively-worded condition to secure the approval and implementation of the privacy screens before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.

Conclusion

14. For the reasons given above, I conclude that the proposed development would accord with the development plan and the appeal should be allowed.

Sarah Colebourne

Inspector

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans in respect of the proposed soft landscaping only: 101, 102.
- 2) Unless within 3 months of the date of this decision a scheme to include details and siting of privacy screens, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval, the use of the patio shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented. If no scheme in accordance with this condition is approved within 3 months of the date of this decision, the use of the patio shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

End of conditions.