



Appeal Decision

Site visit made on 13 January 2023

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st February 2023

Appeal Ref: APP/J1535/D/22/3308154

13 Dukes Avenue, Theydon Bois, EPPING, CM16 7HG

- 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 Miss Sukhbir Kaur against the decision of Epping Forest District Council.
 - The application Ref EPF/1203/22, dated 24 May 2022, was refused by notice dated 21 September 2022.
 - The development proposed is described as the retention of decorative railings at first-floor level.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of decorative railings at first-floor level at 13 Dukes Avenue, Theydon Bois, EPPING, CM16 7HG, in accordance with the terms of the application, Ref: EPF/1203/22, dated 24 May 2022, and the plans submitted with it, subject to the following condition:
 - 1) The roof area enclosed by the decorative railings permitted shall not be used as a balcony, roof garden or similar amenity area.

Main Issues

2. The main issues in this case are the effect of the decorative railings on:
 - The character and appearance of the area around Dukes Avenue, and
 - The living conditions of the occupiers of No 15 Dukes Avenue by way of privacy.

Reasons

3. No 13 is a detached house on the western side of Dukes Avenue. It has been extended to the rear at both single- and two-storey levels. The decorative railings are already in place above a single-storey extension at the rear of the appeal property, enclosing a space around a part first-floor rear extension. They are slim, black metal railings with some minor ornamental features, and are around 90cm high.
4. Policy DBE10 of the Council's Local Plan (LP) indicates that residential extensions will be required to complement and, where appropriate, enhance the appearance of the street-scene and the existing building. This will be achieved by close attention to the scale, form, detail, elevations, and materials of the existing building.

5. Policy DBE9 of the LP indicates that new development should not result in an excessive loss of amenity for neighbouring properties, including by way of visual impact and overlooking.
6. Policy DM10 of the Emerging Local Plan (ELP) follows the main thrust of design policies in the LP, including that alterations to residential buildings should respect and/or complement the form, setting or detailing of the original buildings. In the light of the advanced stage of production of the ELP, I afford it substantial weight.
7. The Council contends that the proposed development would result in harm to the visual impact of the locality since it fails to respect the local character and appearance of the area.
8. The appellant contends that the railings are of a sleek design and have reasonably thin bars that improve the appearance of the rear elevation of the property, and that there is no harm to the visual impact of the locality. Moreover, the railings are located to the rear of the dwelling and are not visible from the public realm. Finally, the proposed railings are an attractive and complimentary decorative feature of a recent extension and renovation of the appeal property.

Character and appearance

9. The Council's officers have indicated that in terms of character and appearance, the railings are not at odds with the application dwelling. Moreover, the railings are not visible from the highway and are not considered to disrupt the street scene or set an unwanted precedent. I concur with that view. Whilst it may not be common to have decorative railings around the top of a ground-floor rear extension, in this case, the railings are slim whilst adding a discreet feature that is seen largely against the main first-floor elevations at the rear of the house, and which softens and enhances the overall appearance.
10. On the basis of the above, I find that the railings do not harm the character or appearance of the area around Dukes Avenue, and that they do not conflict with Policies DBE9 or DBE10 of the LP, or with Policy DM10 of the ELP.

Living conditions

11. Though not forming part of the Council's reasons for refusal, there have been third party objections to the railings on the basis that the enclosed space could be used as a balcony, which would adversely affect the privacy of the occupiers of No 15 Dukes Avenue. From my inspection of the property, it is clear that the floor level of the rear first-floor rooms in the house is well below that of the roof of the rear extension, such that it would not be readily possible to construct any suitable access from those rooms onto the roof area. Moreover, it is not clear whether the roof area is, in fact, capable of bearing the weight involved if this area were to be used as a balcony.
12. In any case, and regardless of these physical obstructions to the effective amenity use of the roof area, such uses can be controlled by way of a suitable condition. In order to ensure the protection of the privacy of the occupiers of No 15, I have therefore attached such a condition to prevent the use of the roof area for any balcony, roof garden or other amenity uses. On this basis, the proposed development would not conflict with Policy DBE9 of the LP.

Conclusion

13. I find that the decorative railings are not harmful to the character or appearance of the area around Dukes Avenue, and that, subject to control by a suitable condition, they would not adversely affect the living conditions of the occupiers of No 15 Dukes Avenue, by way of privacy. Accordingly, I allow this appeal.

Conditions

14. I have attached a condition restricting the use of the area enclosed by the decorative railings in order to protect the living conditions of the occupiers of No 15 Dukes Avenue by way of potential overlooking.

J D Westbrook

INSPECTOR