



Appeal Decision

Site visit made on 6 February 2023

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th March 2023

Appeal Ref: APP/G5180/D/22/3311903

Maxbys, Raggleswood, Chislehurst, BR7 5NH

- 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 A Ansah against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/01100/FULL6, dated 10 March 2022, was refused by notice dated 19 October 2022.
 - The development proposed raising garden level to create level patio area at rear of property, new swimming pool, outdoor kitchen area, sunken conversation pit and raised fence panels.
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Preliminary matters

1. I saw at my site visit that the works the subject of this appeal as shown on the drawings and described above have largely been undertaken.

Decision

2. The appeal is dismissed.

Main issues

3. The main issues are the effect of the development on, firstly, the character and appearance of the Chislehurst Conservation Area and, secondly, the living conditions of adjoining occupiers.

Reasons

Character and appearance

4. The property is within the Chislehurst Conservation Area, where I have a duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Area. The wider Conservation Area has a semi-rural character that derives from there being settlement areas set amongst wooded parts.
 5. The Chislehurst Conservation Area Supplementary Planning Guidance (SPG) appraises 'sub units' of the Area further, with the appeal property in one of the older residential areas that was develop on land originally part of the Camden Estate. I saw at my site visit the road has large houses set on spacious plots, with a diversity of appearance to individual buildings. There have evidently
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been changes to many buildings and also to garden areas at front and rear. However, the general low density form remains and this contributes to the significance of the Area as a heritage asset which, overall, derives from the attractive semi-rural character or open space and settlement areas.

6. Extensions and alterations to the house of Maxbys itself have been undertaken pursuant to planning permissions granted by the Council. The rear garden to the house was, prior to the works the subject of this appeal, largely a natural grass bank. The works that have been undertaken have raised the garden level to a depth of around 9.8m, with a step down of around 4.5m to a lower rear garden. These works, though, have not disrupted the essential character of the locality as being a spacious residential area. The changes are also seen in a context where there have been notable works to houses and garden areas (front and rear). The change from a generally grassed rear garden area to the raised patio does not lead to any harm to the significance of the heritage asset, and hence the character and appearance of the Conservation Area would be preserved.
7. On the first main issue it is thus concluded the works do not conflict with Policy HC1 of the London Plan 2021 and Policies 37 and 41 of the Bromley Local Plan 2019, which seek a high standard of design in new development and require development in conservation areas to preserve or enhance the character and appearance of such areas.

Living conditions

8. I viewed the works that have been undertaken from the adjoining house of Melancol. I saw that the raised patio with the fence is a dominant structure in views from the rear of that property and the garden. I acknowledge the appellant's submission that, in areas of sloping land, there is likely to be some degree of houses and gardens at different heights. However, the situation that has been created goes beyond a reasonable relationship between Maxbys and its neighbours: the height of the raised concrete patio area, the depth of that into the garden, the proximity to the boundary, and the fence atop combine to give an overly dominant structure that is overbearing and materially harmful to the outlook from the neighbours.
9. The submitted drawings show a fence on the boundary with Melancol along the patio area, with floating cantilevered steps down to the lower garden and no fencing along that area; with the boundary to Shanzu there is a similar arrangement of patio and steps shown on the drawings but without fencing. I saw at my site visit there were some differences in the as-built situation: fencing had been installed along the patio area to both properties, whilst concrete steps have been built alongside which there is a fence. However, views over the fence next to the steps into the adjoining gardens were possible, as well as down from the rear of the raised patio area into gardens, and these views at elevated level lead to unacceptable overlooking. Thus, in the situation of the works both as shown on the submitted plans and as seen on site, there is a loss of privacy.
10. An area of land is shown between Maxbys and Melancol for planting. Due to the slim dimensions and difficulty of access to this area I share the concerns of the Council and neighbour that any meaningful long-term screening might occur. In any event, the degree of visual intrusion from the height and depth of the

works is of a magnitude that planting would not sufficiently mitigate against such harm.

11. On the second main issue it is therefore concluded that the works are harmful to the living conditions of adjoining occupiers by virtue of an overbearing impact and loss of privacy. Thus, the works conflict with Policy 37 of the Local Plan which, amongst other matters, requires all development to respect the amenity of occupiers of neighbouring buildings.

Conclusions

12. Although I have found no harm arising with the first main issue, the impact on living conditions and consequential conflict with the development plan on the second main issue is of sufficient weight to conclude that the appeal should be dismissed.

C J Leigh

INSPECTOR