



Appeal Decision

Site visit made on 25 April 2023

by Philip Willmer BSc Dip Arch RIBA

an Inspector appointed by the Secretary of State

Decision date: 18th May 2023

Appeal Ref: APP/T2215/D/23/3315129

2 The Coppice, Bexley, Kent, DA5 2EA.

- 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. Mathew against the decision of Dartford Borough Council
 - The application Ref DA/22/01281/FUL, dated 4 November 2022, was refused by notice dated 30 December 2022.
 - The development proposed is described as *raising level of garden*.
-

Decision

1. The appeal is dismissed.

Main Issue

2. I consider the main issue to be the effect of the proposal on the living conditions of neighbouring occupiers in terms of its potential result in overlooking leading to a loss of privacy.

Reasons

3. The appeal property, 2 The Coppice, is a detached two-storey dwelling, part of a small, relatively recent development of detached houses of a comparable size and design.
4. The appeal property, which sits between numbers 1 and 3 The Coppice, backs on to a development of houses in Tile Kiln Lane. No 2 sits on higher ground than the dwellings in Tile Kiln Lane and has a sloping rear garden. Recent alterations to the dwelling resulted in the rear garden area being reduced. Accordingly, the appellant wishes to infill part of the sloping rear garden with spoil from the current building work to form a new larger level garden area. However, this would both significantly raise the level of the garden above that of the gardens of neighbouring dwellings and bring the raised area closer to the rear of the dwellings in Tile Kiln Lane.
5. Although not complete a substantial amount of spoil has been deposited in the rear garden allowing me, on my visit to understand the potential impact of the proposal on the neighbouring residential occupiers. I will consider each neighbouring properties in turn.

Impact on No. 1 The Coppice:

6. The boundary between No 3 and No 1 is formed by a stepped close boarded fence reflecting the original site levels. In addition, there is also some limited screen planting.
7. From my site observations there would be limited overlooking of the rear garden of No1 The Coppice from the raised garden, and this would in any case be concentrated towards the end of the garden furthest from the house. I therefore do not consider that the development would cause significant harm to the living conditions of the occupiers of No 1

Impact on No.3 The Coppice:

8. The Council found that due to the separation distance and the raised ground level in the garden of number 3 the proposed raise garden level at No1 would not exacerbate overlooking so as to cause harm by reason of loss of privacy. From what I have seen and read I would concur with the Council's finding in this respect.

Impact on no 95 Tile Kiln Lane:

9. The proposed raised garden, the height of which would be close to the height of the current boundary fence, would significantly reduce the separation distance to the private amenity space of No 95 from the garden. This would result in overlooking. I noted that there are trees and shrubs in place along the boundary. However, some of these are deciduous and therefore would offer little screening during the winter months.
10. I consider that for all these reasons the proposed raised garden, close to the rear boundary of No 95 would result in significant overlooking leading to a loss of privacy. This would cause harm to the living conditions of the occupiers of No 95.

Impact on no 97 Tile Kiln Lane:

11. No 97 is set at an angle to the rear garden of the appeal property. Nevertheless, from my observations on site there would, albeit at an oblique angle, be views into the private rear garden of No 97 if the ground level were raised as proposed. While there may only be limited overlooking the raised garden would create a sense of overlooking which would, in itself be detrimental to the living conditions of these neighbouring occupiers.
12. I conclude in respect of the main issue that the proposed development would result in harm to the living conditions of neighbouring residential occupiers of numbers 95 and 97 Tile Kiln Lane due to overlooking leading to a loss of privacy. Accordingly, the development would be contrary to the aims of Policies DP5 and DP7 of the Dartford Local Plan Document-*Dartford Development Policies Plan* (Adopted July 2017) and Policies M2 and M11 of Dartford's emerging pre-submission local plan-Dartford Local Plan to 2037 (September 2021) as they relate to the protection of residential living conditions.

Other Matters

13. The appellant has suggested that additional hard and soft screening along the boundary, a matter that could be conditioned if I were minded to allow the

appeal would overcome concerns in respect of overlooking. However, given the relative levels this would need to be quite high and, in my judgement, would have the potential to appear overbearing to neighbouring occupiers. I therefore give this consideration very limited weight

14. I appreciate, given the elevated position of the appeal property, that there is already some overlooking from existing rear windows in the house. However, the proposal would result in the raised garden only being about 1.4 metres or so from the boundary to the houses in Tile Kiln Lane. In my opinion this would be significantly more harmful than limited overlooking from the windows of the house which is set well back from the boundary.
15. I have noted that the appellant may in the future need a wheelchair and therefore a level access garden would be appreciated. I am sympathetic to this concern. However, there may well be alternative access solutions that would not cause the harm to the living conditions of neighbouring occupiers I have identified.

Conclusions

16. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Philip Willmer

INSPECTOR