



Appeal Decision

Site visit made on 7 November 2023 by N Unwin BSc (Hons) MSc MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th November 2023

Appeal Ref: APP/G5180/D/23/3329927

59 Warren Avenue, Bromley, London BR1 4BP

- 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 John Smith against the decision of the Council of the London Borough of Bromley.
 - The application ref. DC/23/02344/FULL6, dated 16 June 2023, was refused by notice dated 17 August 2023.
 - The development proposed is described as a retrospective planning application for the installation of the following at the rear of the property: Erection of elevated patio area with level access decking floor area; Installation of Privacy screens; Installation of Stair lift with tip up seat; Installation of railings; Installation of gate and Installation of steps leading down to the rear garden. The applicant would also like to propose the installation of ceiling hoists inside their property.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. From the appeal documentation and my site visit I note that the proposed development has been partly carried out. I have determined the appeal on this basis.

Main Issue

4. The effect of the proposal on (a) the living conditions of the occupiers of No's 57 and 61 Warren Avenue with particular regard to outlook and sunlight; and (b) the character and appearance of the area.

Reasons for the Recommendation

Living Conditions

5. The appeal property is a two-storey, semi-detached dwelling with a single storey rear extension which adjoins the raised rear patio area of No. 61 with a modest gap between that of No. 57's. A raised patio forming part of the proposal has been constructed, adjoining the existing rear extension, projecting along the gardens of No's 57 and 61. Due to the topography of the area, there is a significant difference in ground level between the rear patios and adjoining

gardens. The rear gardens of the appeal property and neighbouring dwellings are narrow and elongated.

6. The proposed patio and privacy screens would introduce a treatment projecting appreciably above the adjacent garden areas of No's 57 and 61. These are closest to the rear elevations of the dwellings and patios, forming the most functional area of the gardens. This considerable upwards projection along a notable section of the site boundary would create an overbearing and oppressive form of development when viewed from this functional area of the rear gardens of No's 57 and 61, having an unacceptable impact on the enjoyment of the respective occupiers. When viewed from the rear elevations and patio areas of No's 57 and 61 the proposal would appear single storey, preventing any overbearing impact from these viewpoints.
7. The proposal's position directly south-east of the boundary with No. 61, coupled with its substantial height and narrow nature of the rear gardens, would notably reduce the levels of sunlight received by the aforementioned functional area of the garden. Thus, having an unacceptable impact on the living conditions of the occupiers of No. 61. Due to the proposal's north-west relationship with No. 57 and modest gap with the boundary, it would not result in an unacceptable impact on the sunlight received by the occupiers of No. 57.
8. The proposed privacy screens would mitigate any overlooking of the garden areas of No's 57 and 61. Nevertheless, their combined built form with the patio area would unacceptably harm the living conditions of the occupiers of No. 57 with regards to outlook and No. 61 with regards to outlook and sunlight. Accordingly, and in regard to this main issue, the proposal would be contrary to Policy 37 of the London Borough of Bromley Local Plan (2019) which, among other things, requires new development to respect the living conditions of neighbouring occupiers.

Character and Appearance

9. Raised rear patios are a prevalent feature within the area, notably present at the dwellings neighbouring the appeal site, separated by timber fencing. The proposal would represent a continuation of this feature, albeit projecting beyond the rear extension and thus further into the garden. The proposed privacy screens would be constructed of timber, matching the material of the boundary fence. When combined with their finish levels, just below that of the eaves of the adjoining rear extension, the proposal would appear subservient to the host dwelling and in keeping with the scale of surrounding development.
10. Consequently, the proposal would not harm the character or appearance of the area. It would thus, in regard to this main issue, accord with Policy 37 of the London Borough of Bromley Local Plan (2019) which, amongst other things, requires new development to complement the scale, form, and materials of adjacent buildings and areas.

Other Matters

11. I have not been supplied with any further details of the other developments and planning approvals cited by the appellant and cannot, as a result, be certain that the balance of considerations in those cases were the same as the appeal scheme. In any event, their presence does not justify the harm that would arise as it has been identified. No evidence of the home security benefits

of the proposed patio area and privacy screens have been presented and no reason has been given as to why other security measures such as an alarm system could not be utilised. The Council's approach to their decision is a procedural matter which does not have a bearing on the outcome of the appeal with specific regard to the merits of the proposed development.

Conclusion and Recommendation

12. The appeal scheme is required to provide the appellant with independent, step free access to their rear garden. The Public Sector Equality Duty set out in Section 149 of the Equality Act 2010 (the Act) states that disability is a relevant protected characteristic for the purposes of the Act. I have had regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it. Article 8 of the Human Rights Act is also engaged as the proposal could affect the health, well-being or living conditions of persons within their home. Nonetheless, this is not determinative of the planning issue and may be outweighed by the cumulative effect of other considerations.
13. Whilst I appreciate the requirement for level access into the rear garden, this does not outweigh the harm I have identified above. I am not convinced, based on the evidence, that an alternative form of development which would provide the required step free access to the garden area could not be achieved without giving rise to the extent of harm I have identified to the occupiers of No's 57 and 61.
14. For the reasons given above, the appeal scheme would conflict with the development plan as a whole and there are no material considerations worthy of sufficient weight that would indicate a decision not in accordance therewith. I therefore recommend the appeal be dismissed.

N Unwin

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have had regard to my representative's recommendation and the submitted evidence and on that basis I dismiss the appeal.

John Morrison

INSPECTOR