



Appeal Decision

Site visit made on 22 March 2024

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 April 2024

Appeal Ref: APP/P3610/D/23/3335853

56 West Drive, Cheam, Sutton SM2 7NA

- 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 Mrs Melissa Chin against the decision of Epsom and Ewell Borough Council.
 - The application Ref 23/00963/FLH, dated 4 August 2023, was refused by notice dated 2 October 2023.
 - The development proposed is a raised patio on sloped land, with proposed 600mm planters and screening including of a non-structural pergola.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Work has commenced on the raised patio and therefore the proposal is part retrospective.

Main Issue

3. The main issue is whether the proposal would be harmful to the living conditions of the occupiers of the neighbouring properties with particular regard to overlooking and loss of privacy.

Reasons

4. No.56 West Drive is a detached property and has a single-storey extension to the rear. The platform for the raised patio has been constructed and would create a level threshold with the patio doors in the rear extension. The difference in ground levels will require numerous steps down to the existing garden level which is approximately 1.3m lower.
5. The rear elevation of the extension to the appeal property more or less aligns with the neighbouring property (No.54) which also has a raised patio area. With a couple of steps up to a central door, it is not at the same height as the proposed patio. However, the difference is not substantial and given the separation, the existing boundary treatment and potential landscaping, I do not find that there would be direct overlooking to result in a material loss of privacy to the occupiers of No.54.
6. In contrast, to the other side, the rear of No.58 is set further back. The proposed raised patio would create a significant height difference enabling views directly over the boundary fence. On my site visit, from the constructed

platform the entire of the neighbour's garden was visible and there were also views into their kitchen/dining room which has a set of patio doors close to the boundary. Whilst I acknowledge that there is a level of mutual overlooking between neighbouring properties, the raised patio would introduce a different relationship allowing views back towards the house and the generally more private garden space adjacent.

7. The patio would be offset from the shared boundary although the width of the retained side access path is limited. The walls to the proposed planters around the edge of the patio would further raise the height of the structure and the width of the planting space is only 250mm. The dense bushes proposed as screening would take time to establish, particularly to be of a form and height which would adequately restrict an outlook towards No.58 and would be difficult to enforce in the long term. Moreover, even with planting, due to the close proximity, the depth and height of the patio and associated features are likely to visually result in a perceived loss of privacy for the occupiers of No.58.
8. I therefore conclude that the proposal would have a harmful impact on the living conditions of the occupiers of No.58, contrary to policy DM10 of the Development Management Policies Document 2015 and the Householder Applications: Supplementary Planning Guidance 2004 which together seek to protect occupant and neighbour amenity, including in terms of privacy and outlook. In that regard, it would also fail to reflect the National Planning Policy Framework (section 12) which promotes a high standard of amenity for existing and future users.

Other Matters

9. I have had regard to the personal circumstances of the appellant, and I appreciate that a level threshold would aid mobility for various users of the property. However, there is nothing before me to indicate that this is the only option. Other properties have made alterations to their gardens which do not have the same impact and also show that there are other ways of addressing the height differential. Additionally, the ecological benefits of the proposed planting would be minimal.
10. The appellant has indicated that screening panels could be provided, although there are no details before me and due to the juxtaposition with the neighbour and the potential scale and visual impact of such structures, I do not consider that this is an element which could be left to a condition.

Conclusion

11. While I do not find the proposal would significantly impact the amenities of No.54, it would result in a loss of privacy to the detriment of the occupiers of No.58's enjoyment of their home. There are no other matters which indicate that the proposal should be determined other than in accordance with the development plan.
12. For the reasons set out the appeal is dismissed.

G Ellis

INSPECTOR