



Appeal Decisions

Site visit made on 25 October 2016

by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 November 2016

Appeal A Ref: APP/N5090/C/16/3147082

Appeal B Ref: APP/N5090/C/16/3147083

White Ladyes, Totteridge Green, London N20 8PB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Garry Simpson (Appeal A) and Ms Michele Simpson (Appeal B) against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice, numbered ENF/00786/15, was issued on 23 February 2016.
- The breach of planning control as alleged in the notice is without planning permission, the construction of an astro-turf sports pitch with associated timber enclosing wall, netting, poles and lighting.
- The requirements of the notice are to:
 - (1) Demolish the astro-turf sports and associated timber enclosing wall, netting, poles and lighting, and
 - (2) Permanently remove all constituent materials resulting from the works in (1) above from the property.
- The period for compliance with the requirements is two months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
- Appeal B is proceeding on the grounds set out in section 174(2) (f) and (g). Since the prescribed fees have not been paid within the specified period, the initial appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered in Appeal B.

Summary of Decision: Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the formal decision. I take no action on Appeal B.

Appeal C Ref: APP/N5090/W/16/3146970

White Ladyes, Totteridge Green, London N20 8PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
- The appeal is made by Mr Garry Simpson against the decision of the Council of the London Borough of Barnet.
- The application ref 15/07343/RCU, dated 2 December 2015, was refused by notice dated 4 February 2016.
- The development proposed is described in the planning application form as *to retention of astro-turf sports pitch with associated netting and lighting; retention of timber changing room and swimming pool pump; associated landscaping*.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the formal decision.

Appeals A and C - ground (a) and S78 appeals

Main issues

1. I undertook a comprehensive accompanied site visit and carried out a full inspection to see for myself the development and to gain an impression of its effect upon the surrounding area, including neighbouring properties. The site is located within the Totteridge Conservation Area (CA).
2. The common main issues are as follows: (1) Whether the development preserves or enhances the character or appearance of the CA, and (2) the effect of the development on the living conditions of nearby residents, having particular regard to noise and general disturbance, and outlook.

Reasons - Character and appearance

3. The property is a modern detached dwelling located in a spacious and landscaped plot. The CA's special interest mainly derives from the architectural style of residential properties dating from the 19 and 20th Centuries, including mansion houses fronting Totteridge Green, which are located within lush and spacious plots. The CA appraisal¹ describes the character as notable houses contrasting in scale, style and design scattered around the edges of an informal public triangle of open green land, which reinforces the locality's suburban quality.
4. The Council granted planning permission² for the relocation of a tennis court within the rear garden and the construction of a swimming pool with associated decking and landscaping. The 'as built' development is materially different because it comprises a 20 m x 13 m astro-turf pitch together with netting and poles with a dwarf wall. A pitched roof garden shed is 3.9 m x 5.4 m in use as a changing and pump room to service a swimming pool. The astro-turf pitch is a substantial structure but it is located within the domestic curtilage. The latter does not form an over-dominant feature because of its design. Furthermore, the timber garden shed, positioned on elevated ground, has a pair of part-glazed and panelled bi-folding doors. It looks like a domestic adjunct because of its limited scale and low-pitched roof. Cumulatively, the development protects and enhances the rear garden due to the location of the sports pitch and garden shed.
5. The development is not visible from public vantages given the rearward positioning of the sports pitch and garden shed. It is not visually obtrusive in views from private properties. I find that the size, siting, appearance and illumination cause no visual harm to local characteristics or quality of the suburb.
6. In conclusion, at the very least, the development preserves the character and appearance of the CA. Accordingly, it complies with policy CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (LP), policies DM01 and DM06 of Development Plan Document 2012 (DPD). It complies with paragraphs 56, 126, 131 and 132 to the National Planning Policy Framework (NPPF).

Neighbours' living conditions

7. The sports pitch and garden shed are located in proximity to the site's boundaries. The development does not adversely affect outlook from adjoining dwellings because of the pitch's positioning combined with the overall height and scale of the

¹ I have taken this from Totteridge CA Character Appraisal Statement May 2008.

² Council ref: B/00281/14.

infrastructure. In any event, additional soft landscaping would reduce any visual impact of the development in views from adjoining dwellings.

8. Background sound levels are reasonably low given the suburban character of the area. The use of the sports pitch is likely to generate some level of noise especially when children are enjoying a game of football or simply playing in the enclosed area.
9. In this suburban location and setting sound from people chatting, socialising or simply enjoying their own garden is likely to be a common feature. There is no evidence to suggest that the development has generated unacceptable level of noise. That said however sound emitted from the swimming pool plant, positioned to the rear of the garden shed beneath a covered area, is of much concern to me. The exposed positioning of the plant and machinery increases the perceived level of noise. The tonal quality of the sound is noticeable to the human ear and is likely to be a source of annoyance, especially to residents who may wish to utilise their own gardens for relaxation purposes. Planning conditions could address this matter and I shall return to these later.
10. There is some concern about light pollution given the sports pitch includes eight light fittings at about 2.4 m. The illuminated pitch is likely to be noticeable because of deciduous vegetation. The perceived impact can be mitigated by imposing planning conditions.
11. Subject to the imposition of conditions, I conclude that the development does not have a materially harmful effect upon the living conditions of the occupiers of Manor Lodge and Ridge House, 14 Willow End and 99 – 107 Greenway. Accordingly, the development complies with CS policy CS5, DPD policies DM01 and DM04.

Conditions

12. The NPPF and Planning Practice Guidance suggest it is reasonable to consider whether planning conditions can make development acceptable in planning terms. There is a need to ensure plans submitted with Appeal B are stipulated to avoid any doubt. In the interest of safeguarding residential amenities, I consider additional soft planting would reduce the visual impact of the sports pitch on the neighbours.
13. To address my concern about light pollution and sound emitted from the swimming pool plant, I consider suitable mitigation could potentially reduce the impact on the neighbours. The appellant agrees to a condition specifying the height of the light fittings and operation timings. However, this type of condition might be open to interpretation. A condition requiring a scheme is more appropriate and practical in the circumstances.
14. Against this background, the purpose of a retrospective type condition is to require the appellant to comply with a strict timetable for dealing with outstanding matters as a matter of utmost importance given the identified concern. These matters need addressing in order to make the development acceptable in planning terms. The condition is in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negative condition precedent to secure the subsequent approval and implementation of the outstanding matter. This is because the development has already taken place. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the appellant fails to submit details during the time set by the condition, approved either by the local planning authority

or by the Secretary of State on appeal, and then implemented in accordance with an approved timetable.

Appeals A, B and C - conclusions

15. For the reasons given above, and having regard to all other matters, I conclude that the appeal should succeed on ground (a) and planning permission will be granted and the enforcement notice will be quashed. Consequently, the appeals on grounds (f) and (g) do not therefore need to be considered. I take no further action on Appeal B.
16. I further conclude that Appeal C should be allowed, subject to conditions.

Formal Decisions

Appeal A Ref: APP/N5090/C/16/3147082

17. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the construction of an astro-turf sports pitch with associated timber enclosing wall, netting, poles and lighting on land at White Ladyes, Totteridge Green, London N20 8PB referred to in the notice, subject to the following condition:

- 1) The astro-turf sports pitch with associated timber enclosing wall, netting, poles and lighting hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within two months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision, a scheme for the lighting of the astro-turf pitch, sound insulation for the swimming pool plant and machinery, and soft landscaping shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged

or diseased shall be replaced in the next planting season with others of similar size and species.

Appeal B Ref: APP/N5090/C/16/3147083

18. I take no action on this Appeal.

Appeal C Ref: APP/N5090/W/16/3146970

19. The appeal is allowed and planning permission is granted for astro-turf sports pitch with associated netting and lighting; retention of timber changing room and swimming pool pump; associated landscaping at White Ladyes, Totteridge Green, London N20 8PB in accordance with the terms of the application, ref 15/07343/RCU, dated 2 December 2015, subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing no. RE/WLN208PB/15/1 and OS.01.
- 2) The astro-turf sports pitch with associated timber enclosing wall, netting, poles and lighting hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within two months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision, a scheme for the lighting of the astro-turf pitch, sound insulation for the swimming pool plant and machinery, and soft landscaping shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

A U Ghafoor

Inspector