
Appeal Decision

Site visit made on 3 July 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 21 July 2017

Appeal Ref: APP/M5450/D/17/3176360

44 Broadcroft Avenue, Stanmore, HA7 1PF

- 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 Giresh Gorla against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/5778/16, dated 14 November 2016, was refused by notice dated 2 March 2017.
 - The development proposed is detached outbuilding at rear and raised decking area to rear garden (Retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for detached outbuilding at rear and raised decking area to rear garden at 44 Broadcroft Avenue, Stanmore, HA7 1PF in accordance with the terms of the application, Ref P/5778/16, dated 14 November 2016 and the plans submitted with it, subject to the following condition:

- 1) Unless within 3 months of the date of this decision a scheme for the boundary treatment adjacent to No 46 Broadcroft Avenue, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the raised deck area shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the raised deck area on the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

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.

Procedural Matter

2. As noted in the description of development the outbuilding and raised

decking have already been erected. The term retrospective is not an act of development. The appeal therefore relates to an application that seeks planning permission for the erection of a detached outbuilding and raised decking area.

Main Issues

3. The main issues are the effect of the outbuilding and decking on (a) the character and appearance of the area and (b) the living conditions of existing occupiers, with particular regard to privacy and outlook.

Reasons

Character and appearance

4. No 44 Broadcroft Avenue is located within a group of dwellings. It has a single storey rear addition. The finished floor level of the extension is above ground level. The height of the decking closest to the house is a direct response to the level changes. I understand that the property used to have a raised patio area, albeit smaller than the appeal scheme. Furthermore, many of the nearby properties have raised patio areas. It is constructed from timber and does not appear out of place in a residential garden. In this regard the provision of a raised patio area would not be fundamentally out of character.
5. The second element of the scheme is the outbuilding. The Council's report refers to a building that is in place at No 42. Within the assessment it provides conflicting information about the status of this building, in particular whether it is lawful or not. Nevertheless, I have judged the scheme before me on its individual merits.
6. I appreciate that the Council consider that substantial garden buildings are not part of the character of the area. Nevertheless, its policies allow for the provision of outbuildings, preferably in the 'final quarter' of the garden. This is subject to it being proportionate to the main dwelling and the impact on neighbouring dwellings, which I consider separately below. The Council's Supplementary Planning Guidance Document: Residential Design Guide 2010 (SPD) states at paragraph 6.78 that in order to reduce the impact on neighbouring gardens, outbuildings should normally be located away from the boundaries of the site by at least 2m. For structures that are sited within 2m of a shared boundary a maximum height of 2.5m is recommended.
7. In this case the outbuilding is located within the final quarter of the garden. However, it is not set in from the boundaries and its height exceeds 2.5m. The SPD sets out that this is what should normally be the case and is recommended. To my mind this does not rule out provision of a building outside of these parameters that is well designed and meets the requirement of being proportionate.
8. Whilst the height exceeds the SPD recommendation the levels across the site are such that it does not appear excessive in relation to the main dwelling. The design and form is simple and uses appropriate materials. Further the building is seen against the flank of the building in Ladycroft Walk. This serves to lessen its impact. I note that there are not out buildings in all the garden areas nearby. However, this part of No 44's garden is not part of a

pattern of gaps between dwellings.

9. I therefore conclude that the proposal would not have a harmful effect on the character and appearance of the area. It would not be in conflict with policies CS1B of the Harrow Core Strategy (CS), DM1 of the Harrow Development Management Policies Local Plan (DMP) and 7.6 of the London Plan (LP) which amongst other things seek well designed new development that have regard to surrounding buildings and location.

Living conditions

10. The raised decking area projects to the rear of the dwelling with steps down to a lower area. There are already fences in place on the common boundaries with the adjacent dwellings at Nos 42 and 46. The dispute relates to the raised part closest to the house. It is large enough to be used as a sitting out area for the dwelling.
11. From the higher part of the deck the existing boundary treatments serve to limit any views into the gardens of neighbouring dwellings. Further due to the lower level this is also the case adjacent to No 46. Where the fence reduces in height adjacent to the steps the views are slightly greater and it would be easier to look over. However, these are not areas where people would necessarily sit out for long periods of time.
12. From the lower area of the deck views back toward the windows of No 42 are almost entirely blocked by the existing fence. Views back toward No 46 from both parts of the deck are greater and I understand these windows currently have net curtains. However, given that the closest window is set away from the common boundary within a single storey addition, this could be mitigated through the provision of additional boundary screening in this location secured by condition.
13. The outbuilding location places one of its side walls on the common boundary with No 46. No 46 has a long garden and the main patio area is adjacent to the rear addition. Where the building has been constructed the fence is no longer in place and the wall is visible from within some of the garden of No 46. However, it is located at the bottom end and is limited in its depth. Further the roof form slopes away from the boundary and the height is not excessive, albeit in excess of the SPD recommendation. From the home of No 46 a limited amount of the building would be visible above the fence. From the garden the wall that is visible would only be across a small proportion of the overall garden area. As such I do not consider that there would be a substantial harm to outlook.
14. I therefore conclude that the proposal would not have a harmful effect on the living conditions of existing occupiers, with particular regard to privacy and outlook. It would not be in conflict with policies CS1B of the Harrow Core Strategy (CS), DM1 of the Harrow Development Management Policies Local Plan (DMP) and 7.6 of the London Plan (LP) and SPD which amongst other things seek new development that has regard to any impact on neighbouring occupiers.

Other matters

15. The Council have referred me to an example of an appeal for an outbuilding¹ at 47 Wychwood Avenue. I am not aware of the site specific details of that case which led the inspector to dismiss the appeal. Therefore, whilst I note the scheme was for a building close to the site boundary, I have judged the scheme before me on its individual merits.

Conditions and conclusion

16. The Council have suggested that if the appeal is allowed it should be with three standard conditions and the requirement for a privacy screen. The development is already in place and as such the standard conditions are not necessary. However, I agree with the Council that a privacy screen is required for the reasons set out in my decision.

17. The purpose of condition 1 is to require the appellant to comply with a strict timetable for dealing with boundary treatment which needs to be addressed in order to make the development acceptable. The condition is drafted 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 negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the use of the site authorised by the grant of planning permission may only continue if the appellant complies with each one of a series of requirements.

18. For the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

D J Board
INSPECTOR

¹ APP/M5450/W/16/3159900