
Appeal Decision

Site visit made on 15 January 2020

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 10 March 2020

Appeal Ref: APP/N5090/C/19/3237535

Land at 1 Oakwood Drive, Edgeware HA8 9LE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by M A Quadir against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice was issued on 15 August 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of an awning and supporting framework in the rear garden attached to the existing extension.
 - The requirements of the notice are
 1. Dismantle and remove the awning including the roof, supporting framework and any other associated fixings.
 2. Permanently remove all constituent materials resulting from the works in 1. above from the property.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in sections 174(2)(a)(f) (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been made under ground(a), an application for planning permission is deemed to have been made under Section 177(5) of the Act.
-

Decision

1. 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 Act as amended for the development already carried out namely the erection of an awning and supporting framework in the rear garden attached to the existing extension at 1 Oakwood Drive, Edgeware HA8 9LE referred to in the notice.

Procedural Matter

2. The site visit was scheduled to take place in the presence of the Council and the appellant as access was required to the rear of the appeal dwelling. However, the Council did not attend the visit at the appointed time and subsequently indicated that they consented to the visit continuing. I conducted the site visit at the rear of the appeal site whilst the appellant remained inside the dwelling. As the merits of the case are not up for discussion either at an accompanied or unaccompanied site visit, I am satisfied that neither party was prejudiced by proceeding with the site visit on an unaccompanied basis.

The appeal under ground (a) and the deemed application

3. The main issue is the effect of the development on the character and appearance of the area.
4. The development is made up of a metal framework with awning which includes an overhead element and four poles as support which are in a row to the furthest edge of the patio from the appeal dwelling. The awning itself can be retracted or extended over all or part of the patio.
5. No 3 Oakwood Drive is the adjoining semi-detached dwelling to the appeal dwelling and both No 3 and Windrush Lodge which is a detached bungalow to the other side do not extend beyond the built development of the appeal dwelling. The appeal dwelling has been previously extended with a single storey rear extension, a two storey side extension and a rear dormer. Dwellings with common boundaries to the appeal site other than 1 Meadow Gardens would have some views of the development but those views are likely to largely consist of a side view of the overhead frame and supporting poles. Beyond the rear boundary is part of the garden of 1 Meadow Gardens which has an outbuilding in close proximity to part of the boundary with the appeal dwelling. Views from the rear garden of 1 Meadow Gardens are not significantly altered with the addition of the largely open development over an existing patio area.
6. The development has, in my view, limited visual impact on surrounding dwellings due to its open appearance and design. Although the appeal dwelling has been previously extended, the size and scale of the development are proportionate with the development not exceeding the existing patio and the extent of the built form of the development is not significant. For similar reasons, the development does not appear incongruous or overbearing in relation to neighbouring dwellings.
7. I therefore do not find that the development is in conflict with Policies CS5 and DM01 of the Barnet 's Local Plan (Core Strategy) Development Plan Document which, amongst other things, refer to respecting local context and protecting character and amenity. It would also not conflict with the Supplementary Planning Document: Residential Design Guidance October 2016 which, amongst other things, refers to safeguarding residential amenity.

Other Matters

8. Whilst a copy of the delegated report for a Lawful Development Certificate and the subsequent refusal notice have been provided by the Council, a ground (a) appeal is not limited to a consideration of permitted development rights. As the development is already in situ and no conditions have been suggested, I do not consider that any conditions are necessary.

Conclusion

9. For the reasons given, I conclude that the appeal under ground (a) succeeds. I shall grant planning permission for the development as described in the notice. The appeals on grounds (f) and (g) do not therefore fall to be considered.

E. Griffin

INSPECTOR