



Appeal Decisions

Site visit made on 11 August 2021

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 21 September 2021

Appeal A: Ref APP/A1910/C/20/3265857

Land at 13 Chambersbury Lane, Hemel Hempstead, Hertfordshire

- 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 Mr M Ahmed against an enforcement notice issued on 1 December 2020 by Dacorum Borough Council.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a raised patio to the rear of the property with associated fencing and storage room(s).
 - The requirements of the notice are to:
Step 1: Demolish the raised patio and remove all material arising from the demolition of the patio, from the land. Including, but not limited to, brick, rubble, doors and fencing.
Or: Demolish the raised patio, other than the area of patio shown on drawing 1619/3 dated May 2017, and remove all material arising from the demolition of the patio, from the land. Including, but not limited to, brick, rubble, doors, and fencing. Ensuring that the finished development complies with planning permission 4/00438/17/FHA.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Appeal B: Ref APP/A1910/W/20/3265856

13 Chambersbury Lane, Hemel Hempstead, Herts HP3 8AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr M Ahmed against the decision of Dacorum Borough Council.
 - The application Ref 20/03101/FHA, dated 8 October 2020, was refused by notice dated 30 November 2020.
 - The development is external rear terrace and screen fencing.
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Decisions

1. Appeal A 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 erection of a raised patio to the rear of the property with associated fencing and storage room(s) on land at 13 Chambersbury Lane, Hemel Hempstead, Hertfordshire referred to in the notice, subject to the conditions in the attached schedule.
2. Appeal B is allowed and planning permission is granted for external rear terrace and screen fencing at 13 Chambersbury Lane, Hemel Hempstead, Herts HP3 8AY in accordance with the terms of the application, Ref 20/03101/FHA, dated 8 October 2020, subject to the conditions in the attached schedule.

Procedural Matters

3. Since the appeals were made, a revised National Planning Policy Framework came into force on 20 July 2021. Consequently, both main parties were asked for comments and any received have been taken into account in my Decisions.
4. The planning application subject to Appeal B was made retrospectively and concerns the same development which is the subject of the enforcement notice and Appeal A. Accordingly, I shall deal with them together.

Main Issues

5. The main issue in both appeals is the effect of the development on the living conditions of neighbours at Nos 11 and 15 Chambersbury Lane (Nos 11 and 15), particularly as regards overlooking and outlook.

Reasons

Overlooking

6. Notwithstanding that the patio as built is a more significant structure than approved, the depth of the new rear extension constructed under 4/01652/19/FHA means the patio is set back away from the neighbours' windows and this reduces the degree of overlooking. Further, the tops of the neighbours' ground floor windows roughly align with the tops of the fencing (1.8m above terrace level) that is part of the development and which provides privacy from those using the terrace. This is broadly the same as the conventional relationship between a neighbour's windows and the fencing along the shared boundary, and does not result in an unacceptable degree of overlooking onto the ground floor windows of properties either side of the appeal property or into their gardens. The officer's report says the patio facilitates views back towards neighbours' first floor windows. However, I note that the terrace is broadly in line with internal ground levels and there are commonly views when stepping out into any garden back towards elevated windows in neighbouring houses. In this case the depth of the second storey rear extension serving the appeal property increases the distance. Within this context, the degree of mutual overlooking is not unusual and is acceptable.

Outlook

7. While the development is clearly visible when viewed from neighbouring properties, I have seen nothing to persuade me that there are any significant enclosing or other visually deleterious effects resulting from it. This is particularly given the pre-existing situation, where there was tall mature planting on the boundaries and a detached garage on the appeal site which ran lengthwise alongside the boundary with No 11 and which in my judgement was a more massed form than represented by the appeal development.
8. Despite the depth of the terrace, it remains modest in comparison with the lengths of the neighbouring plots. The plot of No 15 (and rear garden) is particularly large, being situated on a bend in the road, and although I have taken into account what the Council has said about the garden to the rear of the property at No 11, that property does appear to have the benefit of a greater extent of open land towards its rear. I also note that the fenestrational arrangements in the ground floor elevation of that property are largely away from the shared boundary with the appeal property.

9. Further, while the gardens slope down and away from the properties, I note that the fencing drops to a lower level beyond the end of the patio so as to acceptably reduce the visual dominance of the boundary treatment.

Conclusion

10. Accordingly, the development does not cause harm to the living conditions of neighbours at Nos 11 and 15 as regards overlooking and outlook. It therefore does not conflict with Policy CS12 of the Dacorum Borough Core Strategy (September 2013) which seeks to achieve Quality of Site Design.
11. The development is in accordance with the development plan as a whole, and there are no other considerations which outweigh this finding.
12. For the reasons given above I conclude that Appeal A should succeed on ground (a). I shall quash the enforcement notice and grant conditional planning permission.
13. For the reasons given above I conclude that Appeal B should be allowed and I shall grant conditional planning permission.
14. For the avoidance of doubt, I am attaching a condition to each permission to ensure the development complies with the approved drawings and a condition to ensure the approved fencing is retained for the privacy of neighbours.

Andrew Walker

INSPECTOR

Schedule of conditions – Appeals A and B

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 2004/1; 2004/2; 2004/3; Site Location Plan.
- 2) The fencing to both sides of the raised terrace hereby approved shall be erected fully in accordance with approved plans 2004/1 and 2004/2 and shall thereafter be permanently retained as such.