

Appeal Decision

Site visit made on 24 August 2021

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 25 September 2021

Appeal Reference: APP/N5090/D/21/3275245

87 Uphill Road, London NW7 4QD

- 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 David Sciamia against the decision of Barnet London Borough Council.
 - The application (reference 21/1242/RCU, dated 19 February 2021) was refused by notice dated 30 April 2021.
 - The development proposed is described in the application form as a “retrospective application for new 2.8m high fence to rear boundary”.
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Decision

1. The appeal is dismissed.

Procedural matter

2. Since the development which is the subject of this appeal has already been carried out, the application is to be treated as one made under Section 73A of the Town and Country Planning Act 1990.

Main issue

3. The main issue to be determined in this appeal is the effect of the development on the character and appearance of the surroundings.

Reasons

4. Uphill Road lies within an established residential area, with detached houses on relatively large plots in the vicinity of the appeal site. The houses are generally set back from the road, albeit close to their side boundaries, and number 87 and its neighbours have generous back gardens, in a leafy suburban environment. These gardens adjoin the back gardens of properties in Marsh Lane to the north but, by contrast, the back gardens belonging to houses in Marsh Lane are much shorter.
5. The house at number 87 Uphill Road was undergoing some works at the time of the site inspection but work to the garden had evidently been virtually completed. It has been explained that, among other things, a screen of conifers has been removed from the boundary at the rear of the plot and a new

- fence has been constructed. According to the planning application form, the new fence was erected (and completed) in January 2021.
6. The fence was erected without planning permission, however, and planning permission is now sought retrospectively (as noted above).
 7. Policies in the Development Plan are aimed at protecting and enhancing the environment generally, as well as protecting residential amenities. The general aim of achieving good standards of design derives, in particular, from Policy CS5 of 'Barnet's Local Plan (Core Strategy) DPD' (adopted in September 2012) and Policy DM01 of 'Barnet's Local Plan (Development Management Policies) DPD' (also adopted in September 2012). Notably, Policy CS5 of the Core Strategy' includes an aim to "protect and enhance the gardens of residential properties" while Policy DM01 of the 'Development Management Policies' includes an aim of protecting "outlook" for adjoining occupiers and users, among other things.
 8. The Council's 'Local Plan, Supplementary Planning Document: Residential Design Guidance' (adopted in October 2016) is also relevant and it includes specific guidance on boundary treatment, although it does not have the same force as Policies in the Development Plan. It points out that back garden fences generally are expected not to exceed two metres in height, described as "the permitted development allowance".
 9. Among other things, national planning policies (as set out in the 'National Planning Policy Framework') continue to emphasise the importance of achieving good design and they make it plain that new development should be sympathetic to its surroundings. The recent revisions to the 'National Planning Policy Framework') do not fundamentally affect these basic planning principles, in the context of this appeal.
 10. The height of the new boundary fence is given as 2.8 metres. It has a horizontal boarded finish, with small gaps between the boards on the upper part of the fence. The "fair face" is towards the rear of number 87 Uphill Road, with the fence posts on the opposite side. It has an emphatic character, with a dark stained finish, and is visually intrusive at the bottom of the garden, essentially because of its excessive height. I am conscious, moreover, that the fence's visual impact on the neighbouring garden would be even more pronounced, due to its smaller size.
 11. I am aware that there is a high fence at the back of the adjoining garden, at number 89, but it seems to be less intrusive than the fence that is the subject of this appeal. While I have only limited information about the history of the fence on the neighbouring plot, it appears that it does not benefit from planning permission, moreover. In any case, the current appeal must be determined on its own merits, of course.
 12. Evidently, the fence that has been constructed improves privacy at number 87 but in a built-up part of London a very high level of privacy in gardens cannot be guaranteed. In this case, I am convinced that the harm done to the surroundings, especially in respect of the neighbouring property in Marsh Lane, outweigh the benefits of the project. Hence, I have concluded that the scheme before me conflicts with both national and local planning policies (including the Development Plan) and that it ought not to be allowed. Although I have

considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.

Roger C Shrimplin

INSPECTOR