



Appeal Decision

Site visit made on 23 November 2021

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 09 December 2021

Appeal Ref: APP/N5090/C/21/3270144

30 Babington Road London NW4 4LD

- 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 Rabbi Moshe Dadoun against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice, numbered ENF/1475/20, was issued on 19 February 2021.
- The breach of planning control as alleged in the notice is *Without planning permission, the erection of single storey Perspex/timber canopy to the rear of the property.*
- The requirements of the notice are to:
 - (i) Demolish the single storey rear canopy to the rear of the property; and
 - (ii) Remove all constituent materials from the works listed in (i) above from the property.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a)(b) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: the appeal is dismissed and the enforcement notice upheld.

Main Issues

1. Taking the grounds of appeal in the appropriate order, the main issue on ground (b) is whether the matters alleged in the notice have occurred as a matter of fact. If it has, then the main issue on ground (a) is the effect of the development on the character and appearance of the host property and the surrounding area. If that ground fails, then the main issue on ground (g) is whether the time specified in the notice for compliance with its requirements is unreasonably short.

Reasons

The appeal on ground (b)

2. The appellant does not contend that the canopy does not exist; rather, it is asserted that it is not a 'single storey' structure by reason of not enclosing any floor area because it has no walls.
3. Many buildings may not enclose an area with walls – Dutch barns, for instance – but that does not mean that they are not buildings for the purpose of the legislative definition of development (found in Part III of the 1990 Act). Whether or not something is a building requires an assessment of its size, permanence and degree of attachment to the land. The canopy appears to be of substantial and permanent construction and is affixed to the rear of the house. I am in no doubt that it constitutes development requiring planning permission, and that it is adequately described by the Council in their notice.

4. Therefore the appeal on ground (b) does not succeed.

The appeal on ground (a)

5. The Council's reason for issuing the notice is that the canopy amounts to a disproportionate and unsympathetic overdevelopment of the dwelling, to the detriment of the character and appearance of the host dwelling and the surrounding area, contrary to the provisions of relevant planning policies.
6. Although a new Local Plan is emerging, the policies presently applicable to the development are Core Strategy Policies CS1 and CS5; and Development Management Policy DM01, all contained in the 2012 Barnet Local Plan. Together they require high quality design reflecting local context and character. The Council's notice also refers to the Residential Design Guide supplementary planning document, and other policies are referred to not in the notice but in the Council's statement.
7. Although open-sided, the wooden canopy structure with Perspex serrated roof has the visual effect of extending the dwelling significantly into its rear garden, and creates an overall effect of single-storey extensions to the rear that are disproportionate to the dwelling. The Residential Design Guide explains that rear extensions should not look too bulky and prominent compared to the size of the main building and garden to which they relate. A normally acceptable depth of rear extension for a property of this type would be around 3 metres. Instead, the canopy brings the total depth of extensions to around 8 metres. Although the garden is a reasonable size, capable of accommodating the extension without losing an unacceptable amount of amenity space, the size of the extension compared with the house to which it is attached is too big and appears unsympathetic to the house for this reason.
8. Additionally, the materials used in the canopy lack durability and it is not reflective of or sympathetic to the existing dwelling or the surrounding area by its design or its materials. The Residential Design Guide explains that the use of durable and high quality materials is fundamental to creating robust and sustainable residential development. The makeshift nature of the canopy and the use of clear Perspex for its roof are not commensurate with the solidly-built terraced housing in the vicinity. I find it to be harmful to the character of the generally high quality residential development in the area.
9. Therefore I agree with the Council that the development is detrimental to the character and appearance of the house and the surrounding area, contrary to the provisions of the development plan to which I have referred. The appellant has pointed out how useful the structure is as a place to be protected from the rain and to dry out washing. Whilst not doubting the benefits of the structure to the occupants of the property, these benefits are not a consideration of sufficient weight to overcome the objections raised. Therefore the appeal on ground (a) also fails.

The appeal on ground (g)

10. The appellant seeks more time to demolish the canopy because of the current pandemic, specifically referring to the usefulness of the canopy to the children of the house and to the difficulty of accessing the tenanted property during a time of restrictions. I have considered the benefits of the canopy under the appeal on ground (a) above.

11. At the time of writing there are no restrictions in place that would reasonably prevent access to be able to undertake the works required. If the situation changes, then the Council will have a discretion in this regard. The demolition works themselves are not onerous and could readily be achieved within the two months afforded by the Council without the need to engage skilled labour. Accordingly I consider that the time given to comply with the notice does not fall short of what should reasonably be allowed. The appeal on ground (g) also fails.

Conclusion

12. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

13. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Laura Renaudon

INSPECTOR