
Appeal Decisions

Site visit made on 7 July 2021

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 20 December 2021

Appeal A Ref: APP/N5090/C/21/3266329

Land at Ground Floor, 8 Millway, London NW7 3RE

- 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 Maggie Andi against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice was issued on 7 December 2020.
 - The breach of planning control as alleged in the notice is Without planning permission, the construction of a single storey front porch extension
 - The requirements of the notice are
 1. Demolish the single storey front porch extension
 2. Remove all constituent materials from the works listed 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 section 174(2)(a)(f) and (g) of the Town and Country Planning Act 1990 as amended. As an application under ground (a) has been made, the deemed application under Section 177(5) of the Act as amended falls to be considered.
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Appeal B Ref: APP/N5090/W/20/3257356

Land at Ground Floor, 8 Millway, London NW7 3RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as against a refusal of planning permission.
 - The appeal is made by Maggie Andi against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/41820/RCU dated 4 May 2020 was refused by notice dated 29 June 2020.
 - The application was for development of a Porch extension following the demolition of an existing porch extension.
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Decisions

Appeal A

1. It is directed that the enforcement notice be varied by
 - 1) deleting "2 months" as the period for compliance and substituting it with "7 months" as the period for compliance.
 2. Subject to this variation and correction, Appeal A is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
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Appeal B

3. Appeal B is dismissed.

Procedural Matter

4. Appeal B is an appeal against a refusal to grant retrospective planning permission for the development. Appeal A is an appeal relating to the enforcement notice for the same development and the two appeals can therefore be considered together.

Application for Costs

5. An application for costs was made by Maggie Andi against the London Borough of Barnet. This application is the subject of a separate Decision.

Planning History

6. Planning permission was granted for the appeal premises on the 18 January 1967 *for ground floor use as a dental surgery or surgeries consulting and waiting rooms and reception, first floor as separate flat*. Planning permission was subsequently granted for *alterations to front porch with canopy* on the 8 June 1970. There is therefore no dispute that a dentist surgery has existed since the 1960s. Drawings and images of the original porch that was constructed as a result of planning permission granted in 1970 have been supplied. The original porch followed the horizontal line of the soffit above the bay window and was made up of two doors. The window of the porch where it adjoins No 10 was required to be obscure glazed.

Appeal A on ground (a) and the deemed planning application (the DPA) and the Section 78 planning appeal

Main Issue

7. The main issue is the effect of the development on the character and appearance of the host building and the surrounding area.

Reasons

The Policies

8. The Council considers the relevant policies are Policies CS1 and CS5 of Barnet's Adopted Core Strategy (2012) (the Core Strategy), Policy DM01 of the Adopted Development Management Policies DPD (2012) and the Adopted Residential Design Guidance SPD (2016) (the Guidance).
9. Policy CS1 of the Core Strategy is described as a place shaping strategy designed to concentrate and consolidate housing and economic growth in well located areas and is not therefore relevant to the development which is an extension to an existing building in a residential area. Policy CS5 of the Core Strategy and Policy DM01 of the Adopted Development Management Policies DPD which both refer to high quality design and local context are relevant to the development.
10. The appellant's view is that the Guidance is specifically for residential development and is not relevant when the development is not in residential use. The Council considers that the Guidance is still relevant when the dental practice is in a residential street. I do consider that the Guidance does have

limited relevance but the principles contained in the Guidance are, in any event, replicated in the specific policies relied upon by the Council.

Reasons

11. Millway is largely made up of pairs of two storey semi-detached dwellings and some dwellings have been converted into flats. The semi-detached dwellings have tended to retain bay windows, gable front and a catslide element to the front. 8 Millway is a two storey semi-detached building with a flat at first floor level with the dental practice on the ground floor. No 10 Millway, the adjoining semi-detached house retains residential use and appears to be two flats.
12. Although visually different largely due to the dental practice signage, prior to development taking place, the pair of semi-detached buildings made up of No 10 and No 8 retained characteristic features to the front and the previous porch to the appeal premises did not visually dominate the premises.
13. The porch extension is made up of a distinct box shape which extends beyond the line of the bay window and soffit. To the front, there is now a single glazed door with 4 external steps with metal railings to one side of the steps. The other element of the front is also glazed and has the name of the dental practice etched in the lower part of the frontage. The old porch had a glazed element to the side with No 10 whereas there is now an infilled side which projects further towards the road and along the boundary with No 10.
14. The appellant's argument is that there is little difference between the old porch and the replacement porch extension. However, as well as the design differences, the Council estimates that the development is three times the size of the old porch and extends forward of the front building line by around 3.2 metres although the appellant disputes this figure. Nevertheless, the porch extension does protrude significantly into the driveway.
15. Whilst the appellant states that only the porch area has changed, the combination of the design particularly with the external steps and rail does appear incongruous compared to what existed before and also in relation to No 10. Whilst design styles will have changed since the 1970s, the development is larger and greater in depth and the external steps with the railings appear as an add on rather than part of the design.
16. The difference is noticeable and does unbalance the pair of semi-detached buildings compared to what existed previously, particularly in views when walking towards the main A1500 road, the infilled side element is particularly visible now that it projects further forwards.
17. The appellant's view is that the dental practice has been visually different compared to the wider street scene since 1967 when planning permission was first granted. However, there was still some symmetry with No 10 and nearby properties but the porch extension is now visually dominant both in relation to the host building and nearby properties particularly No 10. There appears to be no objection to a porch in principle but even as a ground floor dental practice, the premises form part of the street scene.
18. Whilst the appellant does not consider that the development does cause harm, she is of the view that any harm is outweighed by the benefits of the development. The appellant indicated that the porch extension was required

due to the need for modernisation, the deterioration of the porch and the need for more internal space.

19. In particular, the appellant indicates that the previous porch restricted mobility and impeded access as the old door openings were too small and that the development was designed to facilitate disabled access when none existed previously. The dental practice treats young families in the area some of whom have wheelchairs and also pushchairs. Whilst the practice wishes to modernise and have a designated reception area, it is not clear therefore how the development's current design promotes access for all when the outside step arrangement does not provide disabled access without the use of a separate ramp "which is brought out whenever it is required." I have considered whether the access issue could be resolved by condition but it is not clear from the information before me what alternatives are available and whether there is enough room to provide access inside rather than outside.
20. I understand that the dental practice is a busy one and is currently an NHS prescription hub which serves a large number of people and has to meet relevant standards. Whilst the appellant relies upon Paragraph 93 (previously Paragraph 92) of the National Planning Policy Framework which refers to developing and modernising established facilities for the community, that does in my view include ensuring facilities are accessible. Therefore, I do not find that the benefits put forward that weigh in favour of the development do overcome the harm, largely due to the access issue.
21. I therefore do find that the development does harm the character and appearance of the building itself due to its design and excessive forward project. In terms of the street scene, the development does in my view less affected by the development but, nevertheless, there is harm outside the appeal site due to the relationship with No 10. Although the Council's reason for refusing the planning appeal and issuing the notice refers to the street scene and the wider locality, no distinction is made by the Council with regard to those terms and I have therefore disregarded the wider locality in my assessment.
22. In both appeals, there is therefore conflict with Policy CS5 of the Core Strategy which, amongst other things, development should respect local context and create places of high quality design. There is also conflict with Policy DM01 of the Barnet's Adopted Development Management Policies DPD (2012) which refers to high quality design.
23. The development does not accord with the development plan as a whole and there are no other considerations that outweigh this finding. The ground (a) appeal should not succeed and the DPA is refused.

Appeal A and ground (f)

24. Section 174(2)(f) of the Act states that an appeal may be made on the ground that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. It is therefore necessary under this ground to establish what the purpose of the notice is. In this case, the requirement of the notice is to demolish the single storey front porch extension. The purpose of the notice is therefore to remedy the breach. The appellant considers she should be allowed to revert to the previous porch arrangement but that porch

has been subsumed by the development and no longer exists. The requirement is not therefore excessive. The appeal under ground (f) therefore fails.

Appeal A and ground (g)

25. An appeal under this ground relates to the period for compliance not being sufficient. The period for compliance is 2 months. At the time of making the appeal, the appeal site was within Tier 4 of the Covid- 19 restrictions but those restrictions were subsequently lifted. Nevertheless, it is the case that it may take longer than usual to find contractors to carry out work in view of backlogs of work that arose during the height of the Covid -19 pandemic and the position with regard to future restrictions is uncertain. The appellant has asked for a period of 9 months to 12 months. However, 9 to 12 months appears excessive in view of the nature of the requirement.
26. However, in view of the demands of the practice, the appellant is very likely to want to propose an alternative scheme which may be visually less intrusive and could seek to address the issue of access for the less mobile. I also accept that work would need to be planned to achieve minimum disruption to the dental practice.
27. I therefore consider that a period of compliance of 7 months is reasonable and a proportionate balance and would allow time for an alternative scheme to be discussed as well as obtain quotes. The appeal under ground (g) therefore succeeds to that limited extent and I shall vary the notice accordingly.

Overall Conclusion

28. For the reasons given and having regard to all other matters raised, I conclude that Appeal A fails on grounds (a) and (f) and I shall refuse planning permission on the deemed application and uphold the notice. Appeal A succeeds to the limited extent on ground (g) and I am varying the notice prior to upholding it. I also conclude that Appeal B is dismissed.

E Griffin

INSPECTOR