



Appeal Decision

Site visit made on 29 November 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10/01/2022

Appeal Ref: APP/N5090/D/21/3279577

1 Rawlins Close, Finchley, London N3 3TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Jonathan Lewis against the decision of the Council of the London Borough of Barnet.
- The application Ref 21/2655/S73, dated 12 May 2021, was refused by notice dated 7 July 2021.
- The application sought planning permission for part single part two storey side extension, single storey rear extension, conversion of garage into habitable space. Replacement of garage doors with windows. Infill front canopy to form new front lobby without complying with conditions attached to planning permission Ref 20/3601/HSE, dated 14 October 2020.
- The conditions in dispute are Nos 1 and 7 which state that:
 - 1 *The development hereby permitted shall be carried out in accordance with the following approved plans: PL-100; PL-101; PL-102; PL-103; PL-104; PL-105 revA; PL-106 revB; Tree report Ref Q11036.*
 - 7 *The roof of the extension hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.*
- The reasons given for the conditions are:
 - 1 *For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).*
 - 7 *To ensure that the amenities of the occupiers of adjoining properties are not prejudiced by overlooking in accordance with policy DM01 of the Development Management Policies DPD (adopted September 2012).*

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the conditions are reasonable and necessary in the interests of the privacy of neighbouring residents.

Reasons

3. The permitted development includes a single storey extension to the rear, and this appeared to be substantially complete at the time of my visit. It is proposed to vary the conditions so that a terrace can be created above the rear extension.
4. To address matters of privacy, it is proposed to include a frosted glass screen along one side of the terrace. This would be set back from the edge of the ground floor extension, and would reflect the alignment of the first floor side wall of the host building.
5. However, the screen would reduce in height towards the front of the terrace. Due to this design, residents standing to the front of the terrace would have an elevated view of the gardens of 4 and 6 Waverley Grove. Even allowing for the set-back of the terrace from the site boundary, the elevated and wide-angled nature of the view would be unduly intrusive to the privacy that residents of Nos 4 and 6 could reasonably expect. Activity to the front of the terrace would also be apparent to residents of Nos 4 and 6, which would increase the perception of being overlooked.
6. The view to No 4 would require users to look round the screen, but this would not be to a degree where intrusive views of No 4 would be unlikely to occur. There is a significant degree of screening provided by planting within the garden of No 6. However, based on what I have seen and read, including the appellant's Tree Report, this planting includes dense ivy the retention of which cannot be relied upon.
7. The Council also refers to overlooking of Glenbrook Lodge. However, despite the proximity to the appeal proposal, people using the terrace would need to peer round the edge of the screen to an extent where this would be unlikely to occur. On that basis, a screen of suitable opacity would provide an acceptable degree of protection for the residents of Glenbrook Lodge. However, this does not lead me to a different conclusion in respect of the harm to Nos 4 and 6.
8. The approved scheme includes a Juliet balcony serving the first floor master bedroom, which would also enable an elevated and wide angle view of neighbouring gardens. However, this balcony would be set further away from the site boundary, and does not establish a principle for a terrace of the extent and location proposed.
9. I have had regard to the appeal decision¹ referred to by the appellant. However, from the details given, that appeal is not a direct parallel to the appeal before me, particularly in respect of the relative arrangement with rear gardens. Similarly, the balconies and terraces on other properties in the area do not reflect the particular circumstances of the appeal site. In any event, I have determined this appeal on its own merits.
10. I conclude that the amendments proposed would lead to significant harm to the privacy of residents of neighbouring properties, and in particular Nos 4 and 6. The disputed conditions are therefore reasonable and necessary in the interests of the living conditions of neighbouring residents with regards to privacy. The appeal proposal would therefore conflict with policies DM01 of the Council's Development Management Policies 2012, and policies CS NPPF, CS1 and CS5 of

¹ Appeal Ref: APP/N5090/W/17/3191062

the Core Strategy 2012 with regards to the privacy of adjoining occupiers and providing an attractive environment in gardens or residential properties. The proposal would also be contrary to the advice of the Council's Residential Design Guidance SPD² 2016 and the Sustainable Design and Construction SPD 2016 with regards to privacy.

11. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR

² Supplementary Planning Document