



Appeal Decision

Site visit undertaken on 4 July 2022

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 27TH July 2022

Appeal Ref: APP/Q5300/D/22/3294363

92 The Fairway, Southgate N14 4NU

- 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 Gjovalin Marku against the decision of the London Borough of Enfield.
 - The application Ref No. 21/04262/HOU, dated 12 November 2021, was refused by notice dated 5 January 2022.
 - The development proposed is described as alterations to existing enclosed canopy.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of my site visit, a three-sided canopy with lean-to roof to the rear of the property was in situ. According to the appeal documents, this canopy was installed without planning consent and has been subject to a refused planning application¹ and dismissed appeal decision.² The proposal under this appeal is also for the retention of a canopy, however with the pitch and overall height of the canopy being lower by approximately 35cms in height and the increase in glazing. It is clear in the Planning Officer's report that there are no concerns regarding the design of the scheme, and that the main concerns are with regards to the impact towards the living conditions of a neighbouring property. I will determine this appeal on this basis.

Main Issue

3. Taking the above into account, the main issue is the effect of the proposed decrease in height of the canopy upon the living conditions of the existing and future occupiers of No.94 The Fairway with particular regard to access to light, outlook and sense of enclosure.

Reasons

4. The appeal property is an end terraced property in a group of four dwellings which appears to date from the mid-twentieth century. To the rear of the appeal dwelling a number of extensions have been undertaken including a single storey rear extension, and a further extension at lower ground level where the roof of this extension is utilised as a rear terraced area, and includes the construction of a three-sided canopy with lean-to roof. The levels at the appeal property are marginally different to the neighbouring properties with the

¹ Enfield Planning Reference: 20/03870/HOU

² Appeal Ref: APP/Q5300/D/21/3271304, Dated 1 September 2021

rear terrace and ground level of the canopy higher than the ground level of the neighbouring property at No.94 The Fairway.

5. Immediately adjacent to the canopy structure, No.94 contains a paved area which leads into a single storey rear extension which has full height doors and a smaller window further along the rear façade. The main concerns raised by the Council are with regards to the impact of the canopy structure upon the room at ground floor level which accesses the full height glazed doors to the rear of No.94. The appellant in their Statement of Case (SoC) disputes that the full height glazed doors provide light to a habitable room, however no evidence is presented to confirm this.
6. On my site visit I observed that the full height glazed doors appeared to access an open plan living area which appeared to be part of a kitchen area which could be utilised for sitting in and for the enjoyment of the property. To me it was very clear that the full height glazed doors did provide light to a habitable space and I note similar observations were also made by the Council and also under the previous planning appeal.
7. In undertaking alterations to existing properties, the London Borough of Enfield Development Management Policies Document 2014 (DMD) Policy DMD 8 lists a number of standards for residential development, including 1c which seeks that amenity in terms of daylight, sunlight, outlook, and privacy is preserved (amongst others). DMD Policy DMD 11 is specific to rear extensions and contains specific criteria which must be followed such as 2b: not exceeding a line taken at a 45 degree angle from the midpoint of the nearest original ground floor window of the adjacent property. The depth of the extension remains unchanged from the previous appeal and would still breach the 45 degree line from the full height glazed doors which would be in conflict with DMD Policy DMD11.
8. I acknowledge and appreciate the efforts undertaken in order to reduce the height of the structure and trying to make the structure more lightweight with the addition of glass. However, the canopy still remains quite tall and has the appearance of an extension rather than a canopy and still presents as a solid structure along the boundary when experienced from No.94. The appellant's SoC refers to a '45 degree light test' however no formal daylight/sunlight assessment has been submitted, such as detailing assessments of shadow and light from a reputable guidance document. I am therefore not convinced by comments in the appellant's SoC that the structure would not cause a shadow over the neighbouring property (albeit the appellant has suggested that the sun travels from west to the east; rather than east to west). It is clear that in the afternoon, the structure would cause some overshadowing of the rear patio area, an observation that was also commented upon in the previous appeal decision.
9. I am also not convinced by arguments that the existing solid boundary wall would mitigate any type of feeling of overbearingness, given that the canopy is clearly taller than the wall. Despite there being increased levels of glazing, the canopy structure still appears more like an enclosed extension which has a solid appearance towards the experience of users of the patio space and the rear full height glazed doors. I agree that the residents of No.94 would still be able to look down their garden, however the outlook from the full height glazed windows and from the patio area would be restrictive. The lowering of height of

the canopy would improve the position slightly, but would still cause significant adverse impacts towards the neighbour at 94 The Fairway.

10. I note the submission of a number of planning decisions³ which aim to illustrate similar considerations and transparency in decision making to the appeal scheme. There is no discussion on what the appellant wants me to take from these decisions as to illustrate similarities in decision making. It is clear that neither of the schemes put forward are very recent or approved under the current DMD policy position; or have similar considerations which have regards to construction and land levels of the adjacent property. As such, the example decisions do not provide any additional justification for the appropriateness of this scheme.
11. Overall, and in conclusion of this matter, whilst the proposed decrease in height of the canopy will result in some slight reduction in harm, I remain unconvinced that the alterations are enough to overcome the significant adverse impact on living conditions of No.94 The Fairway in terms of access to light, overshadowing, outlook and sense of enclosure. The scheme would therefore be contrary to DMD Policy DMD 8 and DMD 11, as described previously.
12. I note reference in the Council's Decision Notice to Enfield Core Strategy Core Policies 4 (Housing Quality); Core Policy 30 (Maintaining and improving the quality of the Built Environment); and DMD Policy DMD 6 (Residential Character). Additionally, London Plan Policy D1 (London's form, character and capacity for growth) is listed. These policies all deal with design, rather than living conditions, and as such are not relevant to the determination of this appeal.

Conclusion

13. Taking the above into account, I conclude that the appeal be dismissed.

J Somers

INSPECTOR

³ Enfield Planning Ref: TP/08/1845 – 41 Green Rd, London; TP/00/0055 – 132 The Fairway; P13-03546PLA – 24 Melbourne Ave; P13/01142PLA – 14 Banton Close; TP/11/1523 41 Chestnut Road.