



Appeal Decision

Site visit made on 28 June 2022

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2022

Appeal Ref: APP/N5090/C/20/3264939

18 Hamilton Road, Barnet EN4 9HE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mrs Debbie Stratton against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 3 November 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of decking to the rear of the property.
 - The requirements of the notice are to:
 1. Either
 - a) Reduce the height of the decking to the rear of the property to 30cm above the ground and ensure that together with the existing outbuildings, the decking does not cover more than 50% percent of the garden area to fit the Permitted Development criteria
 - Or
 - b) Demolish the decking
 2. Permanently remove all constituent materials resulting from the works 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. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, as amended, for the development already carried out, namely the construction of decking to the rear of the property at 18 Hamilton Road, Barnet EN4 9HE as shown on the plan attached to the notice.

Preliminary Matters

2. The London Plan 2021 (the LP 2021) was published by the Mayor of London on 2 March 2021, and this post-dates the Council's Enforcement Notice. It is incumbent upon me to take into account the most up to date information in reaching a decision. The Council has provided the relevant policies of the LP 2021, and I note that they do not substantially differ from the policies of the London Plan 2016 that were referenced on the Enforcement Notice. Accordingly, in reaching my decision, I have had regard to the policies of the LP 2021.

The appeal on ground (a)

3. The appellant's appeal on ground (a) is that planning permission ought to be granted for the matters alleged in the notice. In doing so, they seek to retain the decking as constructed in its current location.
4. Accordingly, I consider the main issues to be:
 - The effect of the development on the character and appearance of the house and the surrounding area; and,
 - The effect of the development on the living conditions of the occupants of neighbouring properties, with particular regard to their privacy and outlook.

Character and appearance

5. The appeal property is a dormer bungalow located in a residential area. The surrounding area is predominantly characterised by bungalows of a similar design, with modest front and rear gardens.
6. The rear garden slopes upwards away from the house with the area of raised decking located towards the far end of the garden and providing stepped access to a garden building. The Council advise that the decking is 0.5 metres in height from the original ground level and projects by approximately 5 metres. I also note that it extends across almost the entire width of the rear garden.
7. There are limited views of the area of decking from the rear gardens and upper floor windows of the nearest neighbouring properties. However, there are no wider public views, and it is not visible from the street.
8. The decking has been painted grey and incorporates two raised planters to its front. It has a straightforward domestic appearance with the rise in ground level providing logic for its design and scale. In addition, raised timber decking is a feature that is often found within a residential garden. Accordingly, I do not find the development appears overly dominant or incongruous in this domestic setting.
9. For these reasons, I conclude that the development causes no harm to the character or appearance of the house or the wider surrounding area. Therefore, there is no conflict with policy CS5 of Barnet's Local Plan Core Strategy 2012 (Core Strategy), policy DM01 of Barnet's Local Plan Development Management Policies 2012 (BLPDMP) or policy D3 of the LP 2021. Together, amongst other things, these policies seek to protect and enhance Barnet's character through high quality design.

Living conditions

10. The boundary of the appeal site with the rear garden of No.20 is comprised of solid timber fencing panels and concrete posts, topped with trellis. This is reinforced by a mix of young trees, and mature domestic bushes that provide an effective screen between the two properties. This provides a good level of privacy albeit with some gaps that provide some very limited mutual overlooking.

11. The boundary with No.16 is a low wall topped with trellis and reinforced by similar vegetation. Owing to the low level of the wall and the extent of the trellis along this boundary, there will have always been a degree of accepted mutual overlooking. The issue is therefore whether the degree of overlooking has been made significantly worse by the development so as to result in an unacceptable loss of privacy.
12. During my visit I was able to stand on the decking and look along the shared boundaries. The height and extent of the fencing, trellis and vegetation along the boundary with No.20 provide a good screen that largely prevented me from overlooking this adjoining private garden. However, I was able to see through, and slightly over, a small area of trellis that was immediately adjacent to the decking. This provided a partially obscured view of a small area of the adjacent garden and therefore this does not amount to an unacceptable loss of privacy.
13. The boundary with No.16 is less substantial, with the trellis being more see-through. Nevertheless, the raised decking is not of such a height that it would afford substantial views over the boundary into this neighbouring garden area. Furthermore, the trees and domestic vegetation along the boundary are abundant and mature in age, further restricting the ability for any direct overlooking. As a result, the raised decking would not significantly increase the opportunity for overlooking. Therefore, I consider that an acceptable level of privacy is maintained for these neighbouring occupiers.
14. Given the relatively low height of the decking in relation to the shared boundaries, and the intervening vegetation, views of the development, or anyone using it, are limited, and so it does not appear as an overly oppressive or dominant feature. Therefore, there is no harm to the outlook of neighbouring residents.
15. To conclude on this main issue, the development would not harm the living conditions of the occupants of neighbouring properties, with particular regard to their privacy and outlook. There is no conflict with policies CS1 and CS5 of the Core Strategy, policy DM01 of the BLPDMP or policy D3 of the LP 2021. Together, these policies seek to achieve high quality places with development proposals designed to allow for adequate privacy and outlook, among other things. Accordingly, the development would accord with the guidance set out in the Barnet Residential Design Guidance (2016), which seeks to safeguard residential amenity, in terms of privacy and outlook.

Conclusion

16. For the reasons given above, I conclude that the appeal succeeds on ground (a). Therefore, I shall grant planning permission for the development as described in the notice. As a consequence, the appeal on grounds (f) and (g) do not fall to be considered.

J M Tweddle

INSPECTOR