



Appeal Decisions

Site visit made on 6 September 2022

by M Madge DIPTP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2022

Appeal A Ref: APP/N5090/C/21/3282804

Land at 32 Cheyne Walk, LONDON NW4 3QX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Jonny Kanzen against an enforcement notice issued by the Council for the London Borough of Barnet.
 - The notice, numbered ENF/0500/21, was issued on 12 August 2021.
 - The breach of planning control as alleged in the notice is without planning permission the construction of a single storey timber rear extension canopy, as shown edged red in the attached photograph.
 - The requirements of the notice are:
 - 1 Demolish the rear single storey timber canopy
 - 2 The permanent removal from the property of all the constituent materials resulting from the works in 1. above.
 - The period for compliance with the requirements is 1 Month.
 - The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/N5090/W/21/3282807

32 Cheyne Walk, LONDON, NW4 3QX

- 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 Jay Patel against the decision of the Council for the London Borough of Brent.
 - The application Ref 21/2425/RCU, dated 29 April 2021 was refused by notice dated 22 June 2022.
 - The development proposed is the erection of a rear canopy (retrospective application).
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Decisions

1. Appeal A is dismissed, and the enforcement notice is upheld.
2. Appeal B is allowed, and planning permission is granted for the erection of a rear canopy (retrospective application) at 32 Cheyne Walk, London NW4 3QX.

Preliminary matter

3. Where planning permission is granted after the service of a copy of an enforcement notice for any development already carried out, s180(1) of the 1990 Act provides that the enforcement notice shall cease to have effect insofar as it is inconsistent with the planning permission. This means that the planning permission overrides the enforcement notice to the extent that the planning permission authorises what is being enforced against. However, the enforcement notice is not quashed and does not cease to have effect altogether.

Appeal A

4. The appellant has requested a period of 3 months to allow the householder appeal to be linked with the enforcement appeal, not because the period is too short to comply with the requirements. There is nothing to suggest that the steps required to be carried out could not be completed within one month. The period of one month is therefore reasonable.
5. For this reason, Appeal A does not succeed.

Appeal B

6. The **main issues** are the effect on:
 - the character and appearance of the subject dwelling and surrounding area; and
 - the residential amenity of neighbouring occupiers at 30 Cheyne Walk.

Character and appearance

7. The appeal property is a substantial detached house with detached garage set in a generous plot. The dwelling has been extensively extended and refurbished. The external walls have been rendered white and grey window frames, grey doors and black rainwater goods have been installed.
8. The rear canopy is a lightweight structure constructed of a timber framework with clear sheet roofing material. The materials of the rear canopy do differ from those used elsewhere on the dwelling. Furthermore, the size of the rear canopy is not insubstantial. However, the simplicity of the rear canopy's design and materials prevent it dominating or detracting from the character and appearance of the dwelling.
9. The rear canopy is not visible from adjacent public land. Any effect it may have on the character and appearance of the surrounding area is therefore negligible. While the rear canopy may be visible from neighbouring properties, it is viewed against the backdrop of the subject dwelling and does not appear obtrusive or unsympathetic to the dwelling's character or design. The rear canopy does not therefore adversely affect the character and appearance of the subject dwelling and surrounding area.

Residential amenity

10. The rear canopy does project a considerable distance along the boundary behind 30 Cheyne Walk. The property has high close boarded fences to both side boundaries. The rear canopy is visible above those fences. However, its sides are open and its roof is clear, preventing any significant loss of outlook or any unacceptable sense of enclosure for the residents of No30. The rear canopy is not therefore detrimental to visual or residential amenity of the neighbouring occupiers at No30.

Other Matters

11. The alleged boundary dispute is not a matter before me for consideration.

Conclusion

12. For the reasons given above, the development accords with policies CS1 and CS5 of the Local Plan Core Strategy (September 2012) and DM01 of the Development Management Policies DPD (September 2012), which seek to deliver high quality development and protect residential amenity, amongst other things. There is also no significant conflict with advice set out in the Residential Design Guidance (2016), which also seek to deliver high quality development and protect residential amenity.

M Madge

INSPECTOR