



Appeal Decisions

Site visit made on 7 June 2022 by Darren Ellis MPlan

Decision by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2022

Appeal A

Appeal Ref: APP/J3015/D/22/3298190

48 Wadsworth Road, Stapleford, Nottingham NG9 8BD

- 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 Andrew Masser against the decision of Broxtowe Borough Council.
 - The application Ref 21/00807/FUL, dated 28 September 2021, was refused by notice dated 11 February 2022.
 - The development proposed is raised patio and fencing and erect canopy.
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Appeal B

Appeal Ref: APP/J3015/D/22/3298311

48 Wadsworth Road, Stapleford, Nottingham NG9 8BD

- 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 Andrew Masser against the decision of Broxtowe Borough Council.
 - The application Ref 22/00127/FUL, dated 15 February 2022, was refused by notice dated 13 April 2022.
 - The development proposed is raised patio and fencing and erect canopy.
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Decisions

1. Appeal A is allowed and planning permission is granted for raised patio and fencing and erect canopy at 48 Wadsworth Road, Stapleford, Nottingham NG9 8BD in accordance with the terms of the application 21/00807/FUL, dated 28 September 2021, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; As built layouts, elevations and site block plan drawing no. GD/AM/21/044/01.
2. Appeal B is dismissed.

Appeal Procedure

3. The site visits were undertaken by an Appeal Planning Officer whose recommendations are set out below and to which the Inspector has had regard before deciding the appeals.
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Procedural Matters

4. The site is subject to two appeals. These differ only in the proposed rear fence, where one fence panel would be 30cm lower in Appeal B. I have considered each proposal on its individual merits.
5. The descriptions of development have been changed by the Council and with the appellant's agreement to the descriptions shown above. However, I have removed the word 'retain' as this is not a form or description of development.
6. At the time of my site visit the fence as shown on the submitted drawings for Appeal A was in place and the patio area was partially constructed. I have proceeded on this basis.

Main Issues

7. The main issues are:
 - In Appeal A, the effect of the proposal on the living conditions of the occupant of the neighbouring property at 50 Wadsworth Road, with particular regard to light and visual impact.
 - In Appeal B, the effect of the proposal on the living conditions of the occupant of the neighbouring property at 50 Wadsworth Road, with particular regard to light, visual impact and privacy.

Reasons for the Recommendation

Appeal A

8. The appeal property is a detached two-storey dwelling while the adjacent property at No 50 is a detached bungalow. Both properties have generous rear gardens which slope downwards from the house. There is an existing patio at the appeal property which spans the width of the plot and is approximately 1.3m above the level of the lawn. The proposed patio would also span the width of the plot and would be at a level in between the existing patio and the lawn. The scheme also includes a timber canopy for a covered BBQ area adjacent to the boundary with No 50, and timber fencing along this boundary.
9. As shown on the submitted drawings, the fence is 1.775m above the existing patio area and 1.88m above the existing lawn area. These heights are the same for both appeals. Due the difference in land levels between the appeal property and No 50 and the height of the proposed patio, the fence adjacent to the new patio would be a significant height above the level of the patio. Both parties accept that this section of the fence appears to be 3m above the ground level at No 50.
10. The fence is adjacent to the rear outrigger and conservatory at No 50, although there is a gap between the fence and the side elevation of No 50 of around 1m. I noted on site that due to its height the fence has led to a reduction in the amount of natural light and sunlight received by the eastern side windows of the conservatory. However, the northern and western sides and the roof of the conservatory are glazed and provide ample levels of light to the space. Consequently, the fence does not cause an unacceptable overbearing impact or loss of light to the conservatory. Furthermore, as this tall section of fencing

does not project beyond the conservatory, it does not have any significant impact on the rear garden of No 50.

11. The scheme also includes a timber canopy to be built adjacent to the boundary with No 50, alongside the rear outrigger and conservatory at that property. It would be open on all 4 sides. Given the positioning and height of the adjacent fence and lightweight appearance of the canopy, it would not cause any significant loss of light or result in an overbearing impact to the occupant of No 50.
12. For these reasons, Appeal A would not cause harm to the living conditions of the occupant of No 50. As such the proposal would accord with Policy 10 of the Greater Nottingham Aligned Core Strategies (2014) (ACS) and Policy 17 of the Part 2 Local Plan (2019) (LP) which, amongst other things, require development to provide a satisfactory degree of amenity for occupiers of neighbouring properties.

Other Matters

13. The boundary fence at No 50 is buckling in places. If this has been caused by the construction works at the appeal property, then this is a private matter to be resolved between the relevant parties.
14. I note concerns regarding the safety of the canopy which is referred to as a barbeque area, and which is to be constructed in timber. However, the structure is to be open sided and I see no reason why, with normal precautions taken, there would be an undue risk of fire. This matter does not therefore alter my views above.

Appeal B

15. Appeal B differs from Appeal A only insofar as the furthest fence panel adjacent to the new patio would be lowered by 30cm. This would reduce the impact of this panel by allowing more light to enter the conservatory. However, the reduced height of the fence panel would also allow views between the conservatory and the proposed patio and in particular the covered BBQ area, which would sit immediately adjacent. Without the higher fence this would result in an unneighbourly juxtaposition that would be likely to impact upon the living conditions of occupiers of No 50.
16. As such the proposal would fail to comply with ACS Policy 10 and LP Policy 17 which requires development to provide a satisfactory degree of amenity for occupiers of neighbouring properties.

Conclusion and Recommendation

17. As detailed above Appeal A would not cause harm to the living conditions of the occupant of No 50 but Appeal B would cause harm in this regard.
18. There are no other material considerations to indicate that a decision should be made other than in accordance with the development plan. Consequently, I recommend that Appeal A should be allowed and planning permission granted

subject to the condition listed above, and that Appeal B be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall allow Appeal A and grant planning permission subject to the condition above, and dismiss Appeal B.

Anne Jordan

INSPECTOR