



Appeal Decision

Site visit made on 28 September 2022

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2022

Appeal Ref: APP/N5090/D/22/3297652

57 Fernwood Crescent, Whetstone, London, N20 0RP

- 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 John Saunders against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/5625/RCU, dated 22 October 2021, was refused by notice dated 4 March 2022.
 - The development proposed is a rear decking platform (retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for a rear decking platform at 57 Fernwood Crescent, Whetstone, London, N20 0RP in accordance with the terms of the application, Ref 21/5625/RCU, dated 22 October 2021.

Reasons

2. The main issues in this appeal are the effect of the proposed development on:-
 - the character and appearance of the dwelling and the area;
 - the living conditions of the neighbouring occupiers at 55 and 59 Fernwood Crescent.

Character and appearance

3. The development plan includes policies D3 in the London Plan (2021), CS5 in Barnet's Local Plan (Core Strategy) Development Plan Document (2012) and DM01 in the Barnet's Local Plan (Development Management Policies) Development Plan Document (2012) which together, require that new development is of the highest quality design and respects its local context. The National Planning Policy Framework has a similar objective.
4. Fernwood Crescent is steeply sloping road and the dwellings, which are mostly semi-detached, follow the gradient of the road. The appeal dwelling at no 57 is therefore sited on higher ground than its neighbour at no 55 and on lower ground than its adjoining neighbour at no 59. The rear gardens of the dwellings are sited at a significantly lower level than the dwellings.
5. The appeal dwelling has a single storey rear extension across the width of its rear elevation which was approved by the Council in 2005, projecting 3m. The deck projects some 4.74m beyond this and is accessed from the house by two steps with fencing of some 1.68m in height along both side boundaries and six steps with balustrading down to the garden. The Council says that a pattern of

descending garden levels has been established and that the deck has disrupted this because it is 0.168m above the adjoining patio at no 59 rather than as previously when the patio would have been 0.95m above the concrete ground level at the appeal site. However, that difference is not clearly discernible from the appeal site and the site is not overlooked from the rear. Even if seen from the first or second floors of the neighbouring dwellings the height difference would not be particularly noticeable from there either.

6. At my site visit I saw that the neighbouring property at no 55 has a larger deck but have noted that it does not have planning permission and is sited at a lower level and is of a more modest height. As a result of the lower level of the rear garden and the height of the side boundaries at the appeal site, it was not possible for me to assess whether or not other properties in the street have similar decks although the Council says that is not the case. Even so, decks sited adjacent to rear elevations in a similar size and design to this are a common feature of many rear gardens elsewhere. As the rear garden of this property is of a considerable length, the projection of the deck is not unduly out of scale. The dwelling has a large dormer across most of its rear roof slope which, together with its siting on higher ground, gives it a considerable mass on its rear elevation when seen from the site or from neighbouring gardens. When seen against this backdrop, the height of the deck is not unduly disproportionate.
7. I find then, that in terms of its siting, height, depth and design, the proposal is acceptable and does not cause harm to the character or appearance of the dwelling or the area. It accords, therefore, with the policies referred to above.

Living conditions

8. Development plan policies in the Council's Core Strategy CS1 and CS5 and in its Development Management Policies DM01 and DM02 seek to ensure that new development is of a high standard. Of particular relevance to this appeal, policy DM01 requires that adequate privacy is maintained. The Council's Residential Design Guidance SPD (2016) has a similar requirement to the development plan policies.
9. I have noted that a previous enforcement notice was served in 2018 against decking of a similar size to this at the property which addressed concerns regarding overlooking of both neighbouring properties and that the decking was subsequently taken down.
10. The Council and neighbouring occupier both contend that the rear windows of habitable rooms at no 59 can be easily looked into from the deck. The appellant has erected horizontal slatted fencing with trellising above along the boundary to a height of some 1.68m. On the other side, the neighbour has a slightly lower solid fence. At my visit I did not find that it was easy to see into those rooms at all and was only able to see the upper part of those windows when standing very close to the fence. This is because the internal ground level of no 59 is higher than that of the deck and that property has not been extended at ground level. As such, its rear windows are set back from the extension at the appeal site which restricts the view from most of the deck. Whilst a tall person would be able to look over the fence when directly standing against it, that would be at a distance of at least 2m from the nearest window given the projection of the extension on that boundary. Furthermore, the most useable part of the deck is on the other side due to the position of the patio

doors and the steps which is likely to reduce the frequency any overlooking. I find then that any overlooking resulting from the deck would not result in a significant loss of privacy to the occupiers of no 59.

11. The difference in ground levels between the appeal site and no 55 is greater and no 55 sits at a significantly lower level. It has a single storey rear extension which extends approximately halfway along the projection of the deck. A gap of some 0.85m separates the two properties. The fencing and trellis along the edge of the deck on that side is the same as that on the boundary with no 59. I was able to see through the trellis to the garden and deck at no 55 from the edge of the proposed deck and a taller person would have a clearer view over the trellis. This is likely to lead to some loss of privacy for the neighbouring occupiers. However, given that there is already a significant degree of overlooking of that garden and deck from the upper floor windows of neighbouring dwellings and that some of the additional overlooking would be partially screened by the trellis, it has not led to a significantly greater loss of privacy than already occurs.
12. I conclude then that the proposal has not resulted in a significantly harmful loss of privacy for the neighbouring occupiers at no's 55 and 59 and that their living conditions have not been significantly harmed. The proposed deck accords, therefore, with the policies and guidance referred to above.

Conditions

13. As the development has already been carried out and I have found it acceptable, the usual commencement, compliance with the plans and materials conditions are not necessary.

Conclusion

14. For the reasons given above, I conclude that the proposal accords with the development plan and there are no material considerations that would outweigh this. The appeal should be allowed.

Sarah Colebourne

Inspector