



Appeal Decision

Site visit made on 22 September 2022

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st December 2022

Appeal Ref: APP/N5090/W/22/3299181

123 Leaside Crescent, Golders Green, Barnet, London NW11 0JN

- 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 H Heller against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/1348/FUL, dated 14 March 2022, was refused by notice dated 10 May 2022.
 - The development is ground floor rear balcony with privacy screen.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans, accompanying details and my visit, that the balcony is atop of a ground floor flat roof and accessed via the first floor. The Council dealt with the proposal on this basis and so shall I.
3. The balcony is built and appears to match that shown on the plans. The privacy screen referenced in the description of the development is not built but is proposed.

Main Issue

4. The main issue is the effect of the development on the living conditions of the occupants of 121 Leaside Crescent.

Reasons

5. 123 Leaside Crescent is a residential property within an area which is suburban in character. The property has accommodation set across 4 floors, though, owing to a change in level within the plot, the lowest level is visible from the rear of the property but not from the front. Properties in the area are generally served by large rear gardens. In response to the local topography, several properties have external spaces set on different levels. These spaces contain not only gardens but features such as terraces, balconies and outbuildings.
6. Neighbouring No 121 has an arrangement reflective of this local character. The property is served by a garden area set on the lowest land, there is a single step up in height to one seating area and swimming pool and a second step up to a further seating area. This highest seating area is accessed via largely glazed doors serving an open plan living space within the property.

7. The balcony subject to the appeal permits extensive views across much of the cascading external spaces at the rear of No 121. Where it comes closest to No 121, the balcony also allows for some views through the rear doors into the living space of that property.
8. I accept that there will already be some overlooking of the external spaces of No 121 from different floors inside the host property. However, by reason of being an external space with a glazed balustrade, being sited so close to the common boundary, and, given that it projects farther rearwards than much of the host property, I find that it affords particularly invasive views.
9. Furthermore, from some of the internal spaces within the host property - the conservatory, and the room from which the balcony is accessed, the viewing angles across the No 121 plot are more acute. Moreover, and at these viewing angles, the timber fencing running along the common boundary is more effective at providing screening.
10. The proposed privacy screen would limit some of the overlooking presently available. Views into the internal living space within No 121 and across the highest of the external seating areas would be much reduced. However, the balcony is wide, and the privacy screen would be located only on a corner section. Away from this corner the balcony would still provide for clear views across remaining external spaces at No 121. Heightening the privacy screen any further would not solve this issue. Therefore, even with the mitigating effects of the privacy screen, the development causes an unacceptable infringement upon the privacy of the occupiers of No 121.
11. The privacy screen proposed would create a higher means of enclosure close to an external seating area and adjacent access doors at No 121. However, another screen is already in place. It is of quite significant height and already creates a strong sense of enclosure. The additional height and mass of the proposed screen would increase this sense of enclosure to an extent but not significantly so. The additional effects caused by the height of the structure would not cause a harmful dominating effect or, in turn, unacceptably reduce the levels of outlook the occupiers of No 121 currently experience.
12. The use of the balcony will be likely to cause some noise at times. The host property is served by a large garden, which, I have no reason to conclude, could not be used for recreational purposes. Large external spaces are typical of the area and some noise from their use is also likely to be characteristic. I have no substantive evidence before me that the use of the balcony is creating noise which is uncharacteristic or more disturbing than that which occurs in the area. Therefore, I do not find that the balcony is causing unacceptable noise effects upon the occupiers of No 121.
13. However, due to the harmful overlooking effects identified upon the occupiers of No 121, the development would be contrary to Policy DM01 of the Barnet Development Management Policies Development Plan Document, 2012 (DMP) and Policy CS5 of the Barnet Core Strategy Development Plan Document, 2012 (CS). I also find that the development would be in conflict with the Residential Design Guidance Supplementary Planning Document, 2016 and the Sustainable Design and Construction Supplementary Planning Document, 2016. In summary, and amongst other things, those policies and provisions seek to ensure that development allows for adequate privacy for neighbouring occupiers, including their gardens, and inclusive of balcony developments.

14. I do not find conflict with Policies CS NPPF or CS1 of the CS. Policy CS NPPF states that the approach to decision taking should align with the guidance contained within the National Planning Policy Framework whilst Policy CS1 focuses principally upon place shaping strategy. Despite the latter policy containing a cross reference to Policy CS5, I find that there is no specific content within either policy which is particularly relevant to the harm I have identified.

Other Matters

15. The balcony and proposed privacy screen may cause no harm to the character or appearance of the area, however, this lack of harm is neutral in the planning balance and does not outweigh the harm I have identified in respect of the main issue.

Conclusion

16. For the above reasons, having taken account of the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

H Jones

INSPECTOR