



Appeal Decision

Site visit made on 5 May 2023

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2023

Appeal Ref: APP/N5090/C/22/3306273

Land at 2 Monks Avenue, Barnet EN5 1DB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Jagdip Pancholi against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice was issued on 27 July 2022.
- The breach of planning control as alleged in the notice is: Without planning permission the construction of a front porch with associated steps and the enlargement and alteration of an existing rear patio including associated patio staircase and fencing.
- The requirements of the notice are:
 - 1 Demolish the front porch and associated steps.
 - 2 Demolish the enlarged parts of the patio including the associated patio staircase and fencing.
 - 3 Restore the property back to the state that it was shown in plans MON 1001 (previously existing ground floor plan, MON 1005 and 1006 previously existing side elevations and MON 1004 previously existing front elevation and previously existing rear elevation from planning application reference 22/2082/RCU.
 - 4 Permanently remove all constituent materials resulting from the works in 1, 2 and 3 above from the property.
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) 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.

Summary Decision: The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Reasons

1. An appeal on ground (a) is that planning permission ought to be granted for the matters stated in the notice. Based on the information provided, the main issues in the ground (a) appeal are:
 - the effect of the appeal development on the character and appearance of the area;
 - and
 - the effect of the rear patio and fencing on the living conditions of neighbouring occupiers, with particular regard to outlook and privacy for occupants of 4 Monks Avenue.

Character and Appearance

2. The area is characterised by 2 storey semi-detached houses, many of which have been extended over time. Most houses have front bay windows and a modest front-facing porch. The house on the appeal site occupies a prominent corner plot and the new porch which has been constructed is clearly seen from the street.
3. The new entrance door of the porch unusually faces to the side rather than the front. Due to a significant change in land levels to the side, several steps up to the new entrance door are required and these are uncharacteristically wide and side-facing. They are flanked by a new front-facing solid wall which joins the front elevation of the porch. A pair of uncharacteristically long windows are on the front elevation of the porch.
4. The porch projects forward of the front bay window of the house and to the side, beyond the house's original flank wall. As such, it is significantly wider and deeper than any other front porches seen in the area, including the examples I have been referred to at 33 Monks Avenue and 16 Calton Road. In addition, the long front windows of the porch appear to accentuate its height.
5. As a result of the combination of the above characteristics, the front porch and associated steps add significant bulk to the appeal building and are disproportionate, insubordinate, incongruous and unsympathetic developments.
6. The appellant states that there have been several burglaries in the area and that the porch is designed to improve the level of security for the elderly occupiers. Be this as it may, I am not satisfied that this objective may only be met by the size and design of porch which has been constructed, rather than by other security measures.
7. In respect of the front porch and associated steps, I conclude that they harm the character and appearance of the area. In this regard, they do not comply with Policy D3 of the London Plan 2021, Policy CS1 or CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (the Core Strategy), Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (the DMP) or the Residential Design Guidance Supplementary Planning Document 2016 (the SPD).
8. In respect of the rear patio and associated staircase and fencing, based on the information provided and as a matter of my planning judgement, what exists now is largely comparable to what was there before. The increase in depth and width of the rear patio is marginal and its steps do not extend deeper into the rear garden than the built structure which the evidence indicates previously existed. Moreover, the rear patio structure and steps are largely screened from the street by the appeal site's boundary fence.
9. I saw at my site visit that land levels rise in the direction of No 4 and the timber deck to the rear of No 4 is raised up significantly from ground level. It also sits higher than the rear patio on the appeal site. Moreover, there is no evidence that the rear patio on the appeal site has changed in height as a result of the appeal development.
10. Taking the above factors into account, I do not consider there is anything unusual about the scale or height of the fencing which has been erected on the boundary between No 2 and No 4.

11. Because of the respective levels of the rear patio at No 2 and the timber decking at No 4, the fencing in effect appears no higher than a boundary treatment between back gardens normally would.
12. I also find nothing unusual about the design or materials used for this boundary treatment. Its timber fencing, which sits on top of a rendered wall and between rendered piers, is seen within the context of other timber boundary treatments and rendered extensions further up the hill from the appeal site. Because of the change in land levels, the side boundary fencing is clearly seen from the street. But this in itself does not make it unacceptable.
13. In respect of the rear patio and associated steps and fencing, I conclude that they do not harm the character or appearance of the area. In this regard, they do not conflict with Policy D3 of the London Plan 2021, Policy CS1 or CS5 of the Core Strategy, Policy DM01 of the DMP or the SPD.

Living Conditions

14. In respect of this main issue, the Council identifies on the enforcement notice that the rear patio and fencing result in an overly dominant, overbearing and visually obtrusive addition, which is detrimental to the residential amenities of neighbouring occupiers, in particular No 4. I consider this to mean that the Council's concern is in respect of outlook. However, the Council's statement identifies that the rear patio results in a loss of privacy and a sense of overlooking from 'multiple positions'.
15. But as set out above, I have no objection to the height of the fencing, taking into account its height relative to the timber decking at the rear of No 4. I do not accept the Council's assessment of the fencing as overly dominant, overbearing or visually obtrusive. Also as set out above, the increase in the size of the rear patio is marginal. So I do not accept it has resulted in any significant increase in a loss of privacy or overlooking for neighbouring occupiers, compared with what was possible before.
16. Having stood on the rear patio of the appeal site, overlooking from the patio to the rear of No 4 is mitigated by the fencing. Overlooking in other directions is either across a public highway already overlooked by numerous other homes on the road, or across the long back garden of the appeal site to the flank elevation of 17 Calton Road. I have no reason to believe this results in harm either.
17. I conclude that the rear patio and fencing do not harm the living conditions of neighbouring occupiers, with particular regard to outlook and privacy for occupants of No 4. In this regard, I find no conflict with Policy CS5 of the Core Strategy, Policy DM01 of the DMP or the SPD.

Other Matters

18. Representations received refer to subdivision of the appeal building, building work at the rear of the garden, raising of the garden level, increasing the roof line and new roof windows. But none of these are the breach of planning control before me in the notice and so I do not need to consider them.
19. Concerns have also been raised about drawings in an associated retrospective planning application. But this is not before me either.

20. My attention has been drawn to the level of car ownership by occupants of the appeal property. But there is no evidence of any relationship between this and the appeal development before me.
21. An interested party has indicated that the appeal development is 'over permitted development'. But there is no argument put forward by the appellant that any component of the breach before me constitutes permitted development and so this is not a relevant consideration for this ground (a) appeal.

Conclusion on Ground (a)

22. The front porch (and its associated steps) and the rear patio (and its associated fence and steps) are severable parts of the appeal development. So the appeal on ground (a) succeeds in respect of the rear patio and associated fence and steps. But the appeal on ground (a) fails in respect of the front porch and associated steps.

Conclusion

23. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant unconditional planning permission for the enlargement and alteration of an existing rear patio including associated patio staircase and fencing. No conditions for this component of the breach have been suggested nor are there any that I consider are necessary.
24. But otherwise I will uphold the notice and refuse to grant planning permission in respect of the construction of a front porch with associated steps. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the 1990 Act.

Formal Decision

25. The appeal is allowed insofar as it relates to the enlargement and alteration of an existing rear patio including associated patio staircase and fencing 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 enlargement and alteration of an existing rear patio including associated patio staircase and fencing on Land at 2 Monks Avenue, Barnet EN5 1DB.
26. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to the construction of a front porch with associated steps and planning permission is refused in respect of the construction of a front porch with associated steps at Land at 2 Monks Avenue, Barnet EN5 1DB on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

L Perkins

INSPECTOR