



Appeal Decision

Site visit made on 10th April 2024

by Megan Thomas K.C. Barrister-at-Law

an Inspector appointed by the Secretary of State

Decision date: 07 May 2024

Appeal Ref: APP/N5090/D/24/3336879

24 Church Crescent, Church End, Barnet N3 1BG

- 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 Dr Li Soong against the decision of the London Borough of Barnet.
 - The application Ref.23/4080/RCU dated 1 October 2023, was refused by notice dated 27 November 2023.
 - The development sought is the installation of decking, railings and steps to garden.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development has already taken place. This has not affected my consideration of the individual merits of the appeal.
3. I have shortened the description of the development in the box above because the description on the Application Form is very long. It reads *"Decking made of wood only (no concrete base), supported by wooden posts. Created to be level with existing French doors so that disabled elderly occupants (owners of house) can safely step outside into garden. One of the occupants is wheelchair bound and cannot fit the wheelchair down the side pathway next to the house in order to reach garden. Access to the garden would be beneficial quality of life and for occupants' mental wellbeing. Garden is steeply sloping so this decking has become a raised platform in order to remain level. Decking is 9 feet deep from the outermost back wall of the house. Short brick wall existing between 24 Church Crescent and 22 Church Crescent (Council-owned) is unsound and currently in process of being assessed for repairs by Barnet Council, thus a wooden fence/rail was erected as boundary to the decking and not higher than the original brick wall that used to exist there."*

Main Issues

4. The main issues in the appeal are the effect on the living conditions of the occupants of 22 Church Crescent in relation to privacy and the effect on the character and appearance of the host dwelling.

Reasons

Living conditions at 22 Church Crescent

5. The appeal site is a semi-detached dwelling located on the northwestern side of Church Crescent in Barnet. The semi-pair is no.22 to the northeast side and is in two flats. No.26 Church Crescent is located to the southwest of the appeal site and is one of a pair of semis. The ground floor flat at no.22 has a rear garden which runs parallel to the rear garden of the appeal site. Both gardens are at a lower level than Church Crescent.
6. To the rear of no.24 at ground floor level there are two exits. There are French doors leading out from the main rear elevation and there are double doors with a horizontal window above and a small rear window. L-shaped decking has been erected across the articulated rear elevations but not quite to the full width of the dwelling. The decking is close to the common boundary with no.22, where there was previously a brick wall. The decking is accessed from both sets of doors. The decking extends approximately 5 metres deep into the garden at its deepest point. It is surrounded, where necessary, by wooden railings with a handrail and there is a set of wooden steps (about 6) giving access to and from the rear garden. There are handrails running down both sides of the steps. There are panels/cladding below the railings boxing in the structure. The raised decking is about 1.5m in height with hand railings about 1m high.
7. There is a narrow accessway to the southwest of the appeal site adjoining no.26 Church Crescent running from the streetside to the rear garden. It did not appear to me to be sufficiently wide to manoeuvre a wheelchair from the front forecourt into the rear garden.
8. On the common boundary nearest to the rear elevations of no's 22 and 24 there is a wooden panel which is higher towards the rear elevations and which reduces in height as the decking extends north-westwards into the rear garden. The appellant indicates that the wooden fence is not higher than the original brick wall that used to be in that location. No.22 Church Crescent has fenestration and a door out to its rear amenity area and this serves a habitable room - a living room.
9. Owing to the depth, height and location of the decking it is possible to see directly into the habitable room on the ground floor of no.22. This is particularly intrusive when climbing up the steps which serve the decking. Views are clear and at close proximity resulting in significant loss of privacy for the occupants of no.22 (and any future occupants) when in their dwelling or when using the amenity space immediately outside their rear elevation.
10. The appellant has explained in evidence that there was previously a metal platform which sat just below the French doors at the appeal site and served the rear of the property. I have borne this in mind, however, that platform and the brick boundary wall have been removed, and I have assessed the impact of the new decking and associated structures on their own merits. I find the extent of overlooking and loss of privacy to the occupants of no.22 to be unacceptable.
11. I have taken into account the benefit that the current occupants of the appeal site derive from the decking in particular the wheelchair user who, notwithstanding the lack of level access from the dwelling, can access the

decking and derive particular enjoyment and mental health benefits from being outdoors in his garden. However, those considerations do not outweigh the harm I have identified to the occupants of no.22 Church Crescent.

12. On this issue, I conclude that there is significant harm to the living conditions of the occupants of no.22 Church Crescent by reason of loss of privacy. The development is contrary to policy D3 of the London Plan 2021, policy DM01 of the Barnet Development Management Policies DPD (adopted September 2012) and the Barnet Residential Design Guidance SPD (2016).

Character and Appearance

13. Whilst the decking cannot be viewed from the streetscene of Church Crescent, it is important that it respects the character and appearance of the dwelling which it serves. There are other raised patios in the vicinity of the appeal site, probably owing to sloping rear gardens.
14. Whilst the decking extends a sizeable depth into the rear garden and the wooden steps are prominent when viewed from the garden, the overall structure does not appear so dominant or overly large that it overwhelms the appearance of no.24. This is aided by the fact that it does not extend the full width of the dwelling. It also does not jar with the character of the dwelling and is made of materials that do not offend the materials used in the external surfaces of the dwelling.
15. Consequently, in relation to this second issue, I find that the development does not harm the character or appearance of the host dwelling and would not be contrary to policies CS1, CS5 and CS7 of the Barnet Core Strategy (2012), policy DM01 of the Barnet Development Management Policies document (2012) and the guidance contained in the Barnet Residential Design Guidance Supplementary Planning Document (2016).

Conclusion

16. Whilst I have not found the decking and associated structures to harm the character and appearance of the appeal site, I have found that its size and siting does permit unacceptable overlooking of the occupants of no.22 Church Crescent. This harm is sufficient on its own to lead me to refuse planning permission and dismiss the appeal.
17. Having taken into account all representations made, including the detailed representations on behalf of the appellant, for the reasons given above, I dismiss the appeal.

Megan Thomas K.C.

INSPECTOR