

Appeal Decision

Site visit made on 12 September 2024

by Mr James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20 September 2024

Appeal Ref: APP/N5090/C/23/3314569

68 King Edward Road, Barnet EN5 5AU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Ilir Gjoka against an enforcement notice issued by the Council of the London Borough of Barnet.
- The notice was issued on 1 December 2022.
- The breach of planning control as alleged in the notice is “without planning permission, the erection of a two-storey rear extension with associated access steps to garden level”.
- The requirements of the notice are to:
 1. Remove the existing two-storey rear extension and associated steps to rear garden level.
 2. Restore the rear of the property to the state in which it was prior to the breach.
 3. Permanently remove from the property all constituent materials resulting from the works in 1 and 2 above.
- The period for compliance with the requirements is 4 months after the notice takes effect.
- The appeal is proceeding on the ground 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 is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. The appeal form was initially submitted in the names of Mr and Mrs Ilir and Monika Gjoka. However, it was later requested that the appeal proceed in the name of Mr Ilir Gjoka only, which is reflected in the banner heading above.
2. Planning Permission (reference 20/0954/HSE) was granted on 7 April 2020 for a single storey side and rear extension following demolition of the existing conservatory (amended proposal) (Extension Permission). At ground floor and above, it is understood that the extension has been built in accordance with the plans approved under this decision, which does not appear to be disputed by the Council.

3. However, on account of the steeply sloping topography of the land in this area, implementation of the Extension Permission created a large void at lower ground floor level. The appellant therefore incorporated a basement directly below ground floor within this void space. This deviation from the approved plans has led to the enforcement notice (EN) being issued.

Main Issue

4. The main issue in respect of the ground (a) appeal, being the deemed planning application, is the effect of the development on the character and appearance of the host property and the surrounding area.

Reasons

5. The appeal property comprises a detached dwelling along the north-eastern side of King Edward Road. The dwelling is typical of the character of other properties along the road, which are mostly detached bungalows. As alluded to above, King Edward Road slopes downwards from a south-easterly direction. Land to the rear of the properties along the north-eastern side of the road also slopes steeply downwards.
6. The rear extension projects out by approximately 4 metres from the original rear elevation of the dwelling. It has a flat roof and includes large windows/patio doors at both ground and lower ground level. Outside steps have been incorporated along the south-eastern boundary of the property, which lead down to the garden from ground floor level.
7. In terms of footprint, the rear extension reflects what was approved under the Extension Permission. Its width correlates with the width of the rear of the dwelling, which means it integrates well with the main body of the house. The steps leading down to the garden run alongside the boundary to the property, which also allows them to assimilate discreetly within the build.
8. The development is commensurate in scale with a number of other rear extensions in the area, some of which also include flat roofs. This means the extension is not unique in terms of size or design, and reflects the character of other properties in the area. Notably, the rear extension next-door at no. 70 extends out further than the rear elevation of the extension of the appeal property. The extension to the appeal property therefore appears relatively modest in comparison, which reduces its perceived impact in terms of size and bulk.
9. The frontage to the appeal property maintains the appearance of a converted bungalow, and therefore remains typical of the prevailing character of the street. Owing to the sloping topography of land in the area and the tall boundary treatments along each side of the rear garden, the lower ground floor level is also barely visible from neighbouring dwellings. When viewed from surrounding properties, its overall impact on the character and appearance of the area is therefore limited.
10. The extension has been built to a high standard and incorporates materials which match the rest of the house. Even where glimpsed views of the extension are possible, it integrates effectively with the main body of the house, and complements its overall appearance and aesthetic.

11. More generally, given the steep topography of the appeal property, it is difficult to envisage how the development permitted by the Extension Permission would have been possible without some kind of structural support at basement level. The lower ground floor level utilises this void space effectively, whilst preserving the overarching design of the permitted extension.
12. For these reasons, I am satisfied the development does not harm the character and appearance of the host property nor the character and appearance of the surrounding area. The development is consistent with the objectives of Policy D3 of the London Plan (2021), Policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) (2012) and Policy DM01 of Barnet's Local Plan (Development Management Policies) (2012). Together, these policies seek to ensure development achieves a high standard of design, which responds positively to the character and appearance of the area. The development is also consistent with the overarching design objectives of the Council's Residential Design Guidance (2016) and the National Planning Policy Framework (2023).

Other Matters

13. Concern has been raised that the development overlooks properties at the end of the rear garden to the appeal property. However, any potential for overlooking is primarily attributable to the windows at ground floor level of the appeal property, which were consented as part of the Extension Permission. In any event, the fencing at the end of the garden and the intervening distance between the house and the nearest properties to the rear, ensures any potential impact from overlooking is minimal.
14. Changes to the roof profile of the main body of the appeal property were approved under a Lawful Development Certificate (reference 20/1806/192) issued on 15 May 2020 (LDC). These changes therefore have no bearing on my decision.
15. Any water displacement into other properties which has arisen from the development would be a civil matter between the relevant parties.

Conditions

16. The Council has not suggested any conditions in the event of approval, and I am satisfied that none are necessary to make the development acceptable in planning terms.

Conclusion

17. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. The enforcement notice will be quashed.

Formal Decision

18. The appeal is allowed, the enforcement notice is quashed 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 development already carried out, namely the erection of a two-storey rear extension with

associated access steps to garden level at 68 King Edward Road, Barnet EN5 5AU as shown on the plan attached to the notice.

James Blackwell

INSPECTOR