



Appeal Decision

Site visit made on 19 September 2024

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2024

Appeal Ref: APP/N5090/W/24/3344683

1 Evelyn Road, Barnet EN4 9JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Saul Levy against the decision of the Council of the London Borough of Barnet.
 - The application Ref 24/0146/CON sought approval of details pursuant to condition No 4 of planning permission Ref 23/3674/HSE, granted on 1 December 2023.
 - The application was refused by notice dated 27 February 2024.
 - The development proposed is the erection of a lower ground floor rear extension with new patio area above and relocation of existing external steps (amended description).
 - The details for which approval is sought is condition 4 – privacy screens.
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Decision

1. The appeal is dismissed, and the approval of details is refused, namely the details submitted in pursuance of condition 4 attached to planning permission Ref 23/3674/HSE dated 1 December 2023.

Background and procedural matter

2. The Council has granted planning permission for the erection of a lower ground floor rear extension with a new patio area above and relocation of the external steps at the rear of the appeal property. Construction of this development was underway at the time of my site visit.
3. Condition 4 of the planning permission requires the written approval of details relating to the privacy screens that are to be installed. A reason given for the condition is to ensure that the development does not prejudice the amenity of future occupiers.
4. The Council considers that the nature and scale of the structure proposed to meet the requirements of condition 4 constitutes a new development for which planning permission would be required. Nevertheless, the appeal application was determined in relation to condition 4. I have proceeded on that basis.

Main issue

5. The main issue is whether the details submitted in relation to condition 4 are acceptable having regard to the living conditions of the occupiers of 87 and 89 Belmont Avenue and users of the patio at the back of No 1.

Reasons

6. A row of screens is proposed along one side of the flat roof to the lower ground floor addition, which extends outwards from the main rear wall of the appeal dwelling. Due to the sloping ground, this roof occupies an elevated position in relation to the rears of 87 and 89 Belmont Avenue, situated just beyond a passageway that runs alongside the flank wall of No 1. According to the plans, the screens would partly enclose the roof, which is intended for use as a patio.
7. The decorative design of each new screen would allow views readily through them. Views towards and from the patio would also be possible through gaps between adjacent timber posts that would support each screen. Given the resultant intervisibility between the patio, the adjacent passageway and the rears of Nos 87 and 89, the proposal would be ineffective in preventing overlooking problems. Consequently, users of the patio and the occupiers of Nos 87 and 89 would experience an unacceptable loss of privacy.
8. Planting could be introduced to cover the screens. However, soft landscaping would likely take some time to mature before it would be effective as a shield, and it could be cut back or removed at any time. Reference is also made to the role of an existing fence along the side boundary of the site in preventing overlooking problems. However, from the details provided, I am not convinced that a boundary fence at ground level would achieve this outcome in relation to the higher-level patio. These measures do not persuade me to alter my views with regard to loss of privacy.
9. On the main issue, I conclude that the details submitted are not acceptable because significant harm would be caused to the living conditions of users of the patio and the occupiers of Nos 87 and 89. As such, the proposal conflicts with Policies DM01 and DM02 of Barnet's Local Plan (Development Management Policies) Development Plan Document, and the Council's Supplementary Planning Documents, *Residential Design Guidance* and *Sustainable Design and Construction* insofar they aim to safeguard residential amenity.
10. The appellant considers that the proposal is an attractive feature and would provide some shade for residents. Whether or not that is the case, a main reason for imposing condition 4 is to safeguard privacy, which is a different matter.
11. An interested party raises additional concern in relation to safety. This is an important matter, and I have considered all the submitted evidence. However, given my findings on the main issue this is not a matter that has been critical to my decision.

Conclusion

12. The details submitted in relation to condition 4 conflict with the development plan, when read as a whole. There are no material considerations, including the Framework, which indicate that the decision should be taken otherwise than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR