



Appeal Decision

Site visit made on 6 November 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2024

Appeal Ref: APP/Q5300/C/23/3317655 8A Park Road, Enfield EN3 6SS

- 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 Faik Gjyriqi against an enforcement notice issued by the Council of the London Borough of Enfield.
 - The enforcement notice was issued on 31 January 2023.
 - The breach of planning control as alleged in the notice is without planning permission, an authorised balcony has been erected to the roof of an existing single storey extension (outlined in blue on the plan for identification purposes only).
 - The requirements of the notice are:
 1. Remove the entire balcony wooden floor and railing (outlined in blue on the plan for identification purposes).
 - 2 Reinstall the roof of the existing single storey rear extension to how it was before erecting the balcony.
 3. Remove all resulting materials from the Premises.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) 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.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal A on ground (a), the deemed planning application

Main Issues

2. The main issues are the effect of the development on:
 - the character and appearance of the host building and area; and
 - the living conditions of neighbouring occupiers of Nos 6, 8 and 10 Park Road, with particular regard to privacy, outlook, and noise and disturbance.

Reasons

Character and appearance

3. The site relates to a first floor flat within a traditional two-storey property, located in a residential area characterised by similar two storey dwellinghouses,

spaced relatively close together, with modest sized front gardens, bay windows, pitched roofs and brick-built chimney stacks. The materials comprise London stock brick with either slate or tile roofs. These traditional features and materials provide rhythm and harmony to the terrace and area. The appeal property has been extended with an L-shaped rear dormer, above the main roof and back addition.

4. The 'as built' balcony/terrace at first floor level (the subject of this appeal) comprise timber railings erected around the roof of the ground floor rear extension. Given its design, size, height, and prominent position above the single storey rear extension, the terrace forms an obtrusive and incongruous feature on this property which is at odds with the prevailing character of the terrace and area generally. Indeed, I observed during my site visits that roof terraces were not a feature of the area. Therefore, the timber railings facilitating the roof terrace harms the character and appearance of the building and area generally.
5. Consequently, I conclude that the development harms the character and appearance of the host building and area in conflict with Policy CP30 of the Enfield Core Strategy, 2010 (CP), Policies DMD6, DMD8 and DMD37 of the Enfield Development Management Document, 2014 (DMD), and Policy D3 of the London Plan, 2021 (London Plan). Amongst other things, these require that all developments and interventions in the public realm must be high quality and design-led, having special regard to their context and that development that is not suitable for its intended function, that is inappropriate to its context, or which fails to have appropriate regard to its surroundings, will be refused.
6. The development also conflicts with the National Planning Policy Framework, 2023 (the Framework) which seeks to ensure that developments are visually attractive as a result of good architecture, and are sympathetic to local character and history, including the surrounding built environment.

Living conditions for neighbouring occupiers of Nos 6, 8 and 10 Park Road

Privacy and Outlook

7. I appreciate that the existing gardens within the terrace are overlooked already by the existing windows in the rear elevation of properties on Park Road. However, the use of the flat roof as a roof terrace coupled with the lack of sufficient screening, results in a greater degree of overlooking into the neighbouring gardens at 6, 8 and 10 Park Road. I do not consider that the existing vegetation and trees in the rear garden, or the existing back addition at No 10 prevents direct views into these neighbouring gardens. In addition, the unauthorised terrace provides direct views toward the existing window at first floor level at No 6 Park Road, which results in loss of privacy for these neighbouring occupiers.
8. The appellant has submitted a proposed drawings which show that a new obscure glazed screen at 1.8m high could be installed along the side elevation facing towards No 6 Park Road, and that the existing timber railings could be set back from the rear facade. Whilst such an obscure glazed screen would prevent direct overlooking into this neighbouring window, the revised design with setback railing would not prevent any direct overlooking into the rear gardens of Nos 6, 8 and 10, and therefore do not overcome the overlooking issues raised above.

9. Furthermore, the proposed taller obscure glass screen would result in a visually intrusive and unneighbourly form of development, built close to the boundary with No 6 Park Road. This would result in further harm to the living conditions for the occupiers of this neighbouring property, with regard to outlook.
10. Consequently, both the existing 'as built' development and the proposed development has a harmful effect on the living conditions of neighbouring occupiers at Nos 6, 8 and 10 with regard to privacy and outlook.

Noise and disturbance

11. The timber railings facilitate the use of the flat roof of the ground floor rear extension as a terrace, which is in close proximity to neighbouring residential window and room at No 6 Park Road. I have no conclusive evidence before me indicating the layouts of the room at No 6. If the nearest affected window serves a habitable room or bedroom, neighbouring occupiers of this adjacent property would be exposed to increased levels noise and disturbance, from people using the terrace area and conversing outside, particularly late at night when neighbours should reasonably expect peace and quiet. Noise and disturbance would be particularly noticeable during summer months when neighbouring occupiers are more likely to have windows open for ventilation, and I have no evidence that neighbouring occupiers of No 6 are protected from such disturbance. I therefore conclude that there is an unacceptable risk that the development causes harm to the living conditions of the occupiers of No 6 with regard to noise and disturbance.
12. Further revised plans show that the terrace would be reduced in size, such that it is 12sq.m in area. I appreciate that this would limit the numbers of people that would be able to congregate on the terrace. Nevertheless, given the close proximity of the terrace to this neighbouring window, there would still be the potential for noise and disturbance to occupiers of this neighbouring property.
13. The appellant considers that fixed planters could be installed along the edges of the terrace and that the terrace could be reduced in area to approximately 6-7sq.m. However, no details of these planters, nor the location of the reduced size terrace have been submitted. Furthermore, it is unclear how these planters would form an effective permanent barrier to prevent direct overlooking and noise and disturbance to neighbouring occupiers for the life of the development.
14. The appellant's statement makes reference to another appeal decision (ref: APP/A5840/W/15/3129093), where the Inspector in that particular case found that there was no evidence to suggest that future users of the terrace would generate unacceptable levels of noise. However, I do not have full details of that appeal, or indeed the full decision letter, and therefore cannot be certain that the circumstances of that appeal are directly comparable to the appeal before me. In any event I have determined this appeal on its own merits.

Conclusion on living conditions for the neighbouring occupiers of Nos 6, 8 and 10 Park Road, to privacy, outlook, and noise and disturbance.

15. I therefore conclude that the development fails to provide acceptable living conditions for occupiers of Nos 6, 8 and 10 Park Road, with regard to privacy, outlook, and noise and disturbance. Accordingly, the development is contrary to Policies DMD8 and DMD37 of the DMD, and Policy CP30 of the CS. Amongst

other things, this states that development that is inappropriate to its context, or which fails to have appropriate regard to its surroundings, will be refused, and that all development must preserve amenity in terms outlook, privacy, overlooking, noise and disturbance.

Conclusion on Ground (a) and the Deemed Planning Application

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development harms the character and appearance of the host building and area and the living conditions of the neighbouring occupiers with regard to privacy, outlook, noise and disturbance in conflict with the development plan taken as a whole. None of the other matters raised by the appellant, including the benefits of providing outdoor space for the first floor flat outweighs the harms identified. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.
17. For the reasons given and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail, and the deemed planning application should be refused.

The Appeal on Ground (f)

18. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e., the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
19. The enforcement notice requires the removal of the unauthorised development and to reinstate the roof to its previous condition. Therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.
20. The appellant considers this excessive and states that he is willing to have fixed planters installed along the edge of the terrace, reduce the size of the terrace to 6-7 sq.m or have an alternative barrier/screening to the terrace such as planting or an obscure glass screen. However, I have already found under the ground (a) appeal, that it has not been satisfactorily demonstrated that such modifications would overcome the harms identified.
21. There are no other lesser steps drawn to my attention or any obvious alternative that would remedy the breach of planning control which is the purpose of the notice.
22. On this basis, the Ground (f) appeal fails.

The Appeal on Ground (g)

23. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 1 to 3 months in order to appoint a tradesperson to undertake the remedial works.

24. However, during the site visit I observed that most of the remedial works consisting of the removal of the terrace and railings had already been carried out. As such there does not appear to be any reason to extend the existing period of compliance.

25. Accordingly, the ground (g) appeal fails.

Conclusion

26. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR