



Appeal Decision

Site visit made on 19th April 2006

by **Dennis Bradley BSc (Econ) DipTP MRTPI**

an Inspector appointed by the First Secretary of State

3419 1284
The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gov.uk

52.

Date 30 MAY 2006

Appeal Ref: APP/B5480/C/05/2003421
28A Wilfred Avenue, Rainham, Essex RM13 9TX

- 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 J. Singh against an enforcement notice issued by the Council of the London Borough of Havering.
- The Council's reference is SB/TP 3148.
- The notice was issued on 21st July 2005.
- The breach of planning control as alleged in the notice is without planning permission, the construction of an extensive wooden decking structure.
- The requirements of the notice are (i) Remove the decking structure and return the land to its original use as a garden and (ii) Remove all materials brought onto the land in connection with the unauthorised decking structure and all materials, equipment and rubble arising from compliance with (i) above.
- The period for compliance with the requirements is three 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.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

The site and its surroundings

1. The appeal concerns a modern two-storey dwelling which is situated in a cul-de-sac of older dwellings. The dwelling occupies the greater part of the former rear garden of 28 Wilfred Avenue and was erected following a grant of planning permission in 2003. A subsequent planning permission in 2004 allowed the erection of a rear extension to the dwelling. The decking which is the subject of the enforcement notice projects some four metres to the rear of the extension and is some 14 metres wide. I observed that the rear garden slopes down away from the rear of the dwelling, giving the decking a maximum height of about one metre.

Main Issues

2. From my consideration of the written representations and my visit to the site it is my opinion that the principal issue in the appeal is whether the retention of the decking would have an unacceptable impact on residential amenity.

Planning Policy

3. The starting point for the consideration of the appeal must be the development plan, which in the present case includes the Unitary Development Plan (UDP) adopted in 1993. The Council has drawn my attention to policy ENV1 of the UDP which sets out detailed criteria

for considering proposals for residential extensions. One of these criteria is that new development should not materially reduce the degree of privacy enjoyed by the occupants of adjoining properties by reason of overlooking. In addition the Council has produced Supplementary Design Guidance on Residential Extensions and Alterations. While this document does not deal specifically with the erection of decking, it again makes clear that the privacy of adjoining properties is a consideration in determining the acceptability of development proposals.

Reasons

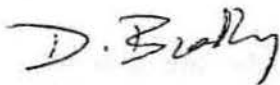
4. The Council argues that the provision of the decking has reduced the privacy of neighbouring dwellings since it allows views of the rear elevations of these dwellings and their gardens. My visit to the site leads me to conclude that this argument has considerable merit, particularly in respect of 30 Wilfred Avenue. In reaching this opinion I noted that some sections of the fence along the common boundary with No. 30 are in excess of two metres high. Nevertheless, I consider that there is still a significant loss of privacy because of the close proximity of the decking to the boundary.
5. I accept that the provision of decking is common within residential areas and that the sloping nature of the site encourages the introduction of such a feature. Moreover, the decking is no doubt of great value to the occupiers of the appeal premises, and also to the disabled persons who the appellant suggests regularly visit the property. However, this must be balanced against the impact on the neighbouring properties. Furthermore, in my opinion it would be possible to modify the decking in a manner that would allow the retention of such a facility without the harmful impact of the present extensive structure.
6. I therefore conclude that the retention of the decking in its present form would conflict with the aims of policy ENV1 and that the appeal must fail.

Conclusions

7. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

8. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.



Inspector