



Appeal Decision

Site visit made on 28 March 2023

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18TH APRIL 2023

Appeal Ref: APP/B5480/C/21/3280978

2 Stanley Close, Romford RM2 5DP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Sachin Vaja against an enforcement notice issued by the Council of the London Borough of Havering.
 - The notice was issued on 16 July 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a raised platform to the rear of the dwelling.
 - The requirements of the notice are: (i) Demolish the raised platform at the rear of the dwelling; and (ii) Remove all other debris, rubbish or other materials accumulated as a result of taking step (i) above.
 - The period for compliance with the requirements is two 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. 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, 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.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) came into force following the issue of the enforcement notice. The main parties have been given an opportunity to comment on the implications of the Framework in respect of the appeal and I have taken it into account in my decision.
3. The Havering Local Plan (LP) was adopted during the course of the appeal and now forms part of the Development Plan for the Borough. Policy DC61 in the former plan referred to in the reasons for issuing the notice has therefore been superseded by LP Policies 7, 10 and 26. After seeking comments from the main parties, I have determined the appeal in accordance with the LP.
4. The Council referred to a potential application for an award of their costs, but none has been forthcoming. Resourcing issues are a matter for the Council and have not formed any part of my deliberations.

Ground (a) appeal

Main Issues

5. The main issues in this appeal are:

- The effect of the raised platform on the living conditions of existing and future occupiers of adjoining residential property, having regard to privacy.
- The effect on the character and appearance of the dwelling and the surrounding area.

Reasons

Living conditions

6. The appeal property contains an enlarged semi-detached dwelling. The dwelling has a generously sized rear garden. The rear garden is flanked on both sides by the rear gardens of adjoining residential properties at 1 and 3 Stanley Close (Nos 1 and 3), whilst beyond the end of the property are the rear gardens of dwellings in a neighbouring street.
7. The raised platform spans almost the whole width of the rear elevation of the dwelling and protrudes into the rear garden about 2.5 m beyond a recently erected single storey extension, itself around 4 m in depth. The platform surface is raised about 1 m above the ground level in the rear garden and is enclosed by a timber balustrade. A set of steps lead from the platform down to the rear garden.
8. Given the suburban setting, occupiers of Nos 1 and 3 might experience some overlooking from adjoining dwellings. Even so, such occupiers could also reasonably expect to enjoy high standards of privacy in their rear gardens. The Council's Residential Extensions and Alterations Supplementary Planning Document (SPD) advises that balconies, which I take to include raised platforms, should be carefully considered so as not to reduce the privacy of the more sensitive private area found normally to the rear of neighbouring properties.
9. The platform protrudes deep into the rear garden of the property, in proximity to the boundaries with Nos 1 and 3. The platform surface is well above the ground levels of the adjacent rear gardens. As a result, when stood on the platform surface, particularly when close to the property boundaries, it is possible for persons to enjoy views over the top of boundary fencing across significant portions of the rear gardens at Nos 1 and 3. Maturing planting in the rear garden of No 3 does not appreciably offset the overlooking of adjoining property that can occur from the platform. Rear-facing windows in the dwelling do not afford such extensive views over adjoining rear gardens or the proximity of the views as are obtained from the platform.
10. I have considered whether a suitable planning condition could be imposed requiring the platform to be screened from Nos 1 and 3. However, this is likely to involve erecting substantial structures that would loom tall over the adjacent rear gardens. Erecting such structures would involve significant additional works that are not part of the breach of planning control. The Act at s177(1)(a) does not provide for the granting of planning permission other than for the

whole or part of the matters alleged in the enforcement notice. Moreover, a requirement to erect substantial screens as a condition of planning permission would deprive adjoining residential occupiers of an opportunity to comment and so would not meet the test of reasonableness applicable to conditions in paragraph 56 of the Framework.

11. Therefore, the platform has contributed to a significant and harmful erosion in the levels of privacy previously enjoyed by occupiers of adjoining residential property. By failing to protect the amenity of existing and future residents due to unacceptable overlooking and loss of privacy, the platform does not accord with LP Policy 7, whilst the significant adverse impact on the amenity of existing occupants does not accord with criterion in LP Policy 10. The platform is also inconsistent with the SPD, which seeks to discourage proposals that have an unacceptable adverse impact on the amenity of neighbours. Furthermore, by not providing a high standard of amenity for existing and future users the platform is inconsistent with paragraph 130(f) of the Framework.

Character and appearance

12. The property is situated in an established residential area, largely made up of dwellings that are similar in terms of their age, architectural style and external materials. The dwellings have balanced elevations and are arranged in evenly spaced pairs. These factors contribute significantly to the pleasant, cohesive and spacious suburban character and appearance of the area.
13. Given the timber construction and limited overall height, the platform and associated balustrade have a lightweight feel and a relatively low profile. These factors mean that the platform is seen as a subservient built feature in the context of the substantial proportions of the dwelling and adjoining properties. Also, given its location there are few public views of the platform and balustrade, whilst as a generous area of rear garden remains there has been no significant erosion in the sense of space at the rear of the property.
14. Therefore, the platform is appropriately related to the character and appearance of the enlarged dwelling and its surroundings. This accords with LP Policy 26, as the platform is informed by, respects and complements the distinctive qualities, identity and character of the property and the local area and it respects the visual integrity and established scale of the building and group of buildings. It is also consistent with the general design principles set out in the SPD. Furthermore, there is no inconsistency with chapter 12 of the Framework in this respect. However, my conclusions on this matter do not outweigh those reached on the other main issue set out above.

Other Matters

15. There is no firm evidence of ground levels at the property posing a significant safety risk to children or adults. It is entirely possible that safe egress from the dwelling to the rear garden could be achieved by means other than the platform. Any works that might be necessary for safe egress from the dwelling following removal of the platform are outside the scope of this appeal.

Conclusion

16. The platform does not accord with the Development Plan when taken as a whole and it is inconsistent with the SPD and the Framework. Therefore, I

conclude that the appeal 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.

Stephen Hawkins

INSPECTOR