

Appeal Decision

Inquiry and site visit held on 17 January 2017

by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 February 2017

Appeal Ref: APP/R4408/C/16/3147573

251 Park Road, Barnsley S70 1QW

- 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 Ms Donna Korodi against an enforcement notice issued by Barnsley Metropolitan Borough Council.
 - The enforcement notice, numbered PG/249/00000, was issued on 4 March 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a raised decking platform at the rear of the dwellinghouse.
 - The requirements of the notice are to dismantle and remove the raised decking at the rear of the property in its entirety.
 - 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 amended¹.
 - The Inquiry sat for one day.
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Decision

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

Procedural matters

2. The initial appeal was made on ground (a) and (d). At the Inquiry, Ms Korodi withdrew ground (d), as she conceded there was insufficient evidence to substantiate the immunity claim. I shall proceed on that basis.

Reasons

3. The main issue is the effect of the development upon the living conditions of nearby residents, having particular regard to visual amenity and privacy.
4. Number 251 is a two-storey plus basement terraced dwelling situated in a block. The property's floor area is level with the road and its rear garden is at lower due to the area's topography. Access steps to its rear have been replaced by a raised platform. The decking extends along the side and rear elevations and comprises perimeter handrail, balustrades and newel posts raised on posts off ground level. The posts appear securely bedded on a solid foundation. It is a substantial structure.
5. Turning to perceived harm arising from the development. I acknowledge that the material utilised in the construction of the decking integrate with the external appearance of the host building. However, the problem is the substantial size of the platform because it dominates the rear elevation to the property. It is noticeable in

¹ That, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.

public and private views and forms a visual intrusion in the street scene. It has a detrimental effect due to its overly excessive scale.

6. From the raised platform one is able to see directly into neighbours' gardens due to its elevated position. Neighbours are likely to see people standing or sitting outdoors given the compact layout of the estate combined with the height of the decking. I consider that the development is likely to increase perception of being overlooked because of the platform's rearward projection and location. Additionally, adjoining properties have short and narrow gardens and their amenity value is likely to be seriously undermined making them less pleasant to enjoy, due to excessive overlooking from the platform. In this location, I find the scale of the decking has a significantly adverse effect on neighbours' quality of life.
7. In an attempt to mitigate loss of privacy, a potential compromise is to erect a screen to the raised platform's sides. In itself the screen would be substantial and potentially exacerbate the visual impact of development. The Council would be willing to accept a reduction in the overall depth of the raised platform similar to the one at no. 249 Park Road, but this scheme would require considerable building work. I think this cannot reasonably be achieved without detailed specifications for a full planning assessment. In these circumstances I do not consider it is wise to grant planning permission for the raised platform subject to conditions stipulating either provision of an obscure screen or its reduction in size.
8. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) indicates there is no deemed planning permission for this type of development. This is because section I - Interpretation of Part 1 - states that the term *raised* in relation to platform means a platform with a height greater than 0.3 m. This type of development is expressly excluded from permitted development (PD) rights found in Part 1 Class A and B for instance. Although garden decking may be PD under Class E, such decking must not exceed 0.3 m height limit. Clearly, the raised platform at no. 251 exceeds 0.3 m in height. In comparison to what could be built under PD rights, the subject development is unacceptable in planning terms.
9. Current occupiers of adjoining properties do not complain about the raised platform's size, but it should be borne in mind that planning permission runs with the land and the development materially harms residential amenities. In addition, it is contended other properties benefit from decking. The Council told me that its investigations reveal platforms at no. 253 and 255 are probably immune from enforcement action. I consider that the existence of other similar development in the immediate vicinity is not a strong enough reason to permit harmful development.
10. In my planning judgement, the development has a materially harmful effect on the living conditions of nearby residents. Accordingly, it conflicts with policy CSP 29 of the Council's Core Strategy. The raised platform fails to meet with aims and objectives of the Council's *House Extensions* supplementary planning document (adopted 2012).

Conclusion

11. Having regard to all other matters, I conclude that the appeal should be dismissed and I have upheld the enforcement notice.

A U Ghafoor

Inspector

APPEARANCES

FOR THE APPELLANT:

Ms Donna Korodi	Appeared as appellant and advocate witness
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FOR THE LOCAL PLANNING AUTHORITY:

Mr Jason Field	Solicitor, Barnsley Metropolitan Borough Council
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He called

Mr Paul Doherty	Planning Enforcement Officer, Barnsley Metropolitan Borough Council
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DOCUMENTS HANDED IN AT THE INQUIRY

- 1) Original/Varied enforcement notice for no. 249 Park Road by the Council
- 2) Invoice by Ms Korodi
- 3) Images submitted by the Council.