

## Appeal Decision

Site visit made on 24 April 2017

**by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC**

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

**Decision date: 8 May 2017**

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**Appeal Ref: APP/C5690/D/16/3165042**

**3 Polsted Road, London SE6 4YH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Saleem Cazenove against the decision of the Council of the London Borough of Lewisham.
  - The application Ref DC/16/097867, dated 9 August 2016, was refused by notice dated 4 October 2016.
  - The development proposed is to retain a rear elevation platform decking and install a rear elevation garden shed (timber).
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### Decision

1. The appeal is dismissed insofar as it relates to a rear elevation garden shed.
2. The appeal is allowed insofar as it relates to rear elevation platform decking and planning permission is granted for rear elevation platform decking at 3 Polsted Road, London SE6 4YH in accordance with the terms of the application, Ref DC/16/097867, dated 9 August 2016, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans, only insofar as they depict rear elevation platform decking: 103-M01, E.P 01 REV A and P.P 01 REV A.

### Procedural Matter

3. When I visited the site decking of a similar arrangement to that which is illustrated in the submitted drawings was in situ, albeit that the balustrades enclosing it differed slightly in their configuration and some not been installed. However, the Council and the appellant differ as to whether the drawings accurately depict the decking which has been installed. In light of the incomplete nature of what is on site and this apparent inconsistency, I have determined the appeal on the basis of a proposed scheme depicted in the submitted drawings.

### Main Issue

4. The main issue raised by this appeal is the effect the proposed decking and shed would have on the living conditions of the occupiers of neighbouring residential properties.
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## Reasons

5. The appeal property is a semi-detached house with a ground floor rear extension. The rear of the other house in the pair, 5 Polsted Road, is set back from the rear elevation of this extension, as is the detached property on the other side, 1 Polsted Road. The gardens of all three properties slope down relatively steeply away from the rear of the houses.
6. The proposal would include a timber deck to the rear of the extension accessed by a short flight of steps leading down from patio doors. The deck would be a similar height to an existing patio to the rear of No 5 albeit set forward of it. Due to the drop in levels the deck would be situated in an elevated position in relation to the rest of the garden as well as those of the neighbouring properties. A timber shed would be located in the corner of the decking adjacent to the boundary with No 5.
7. The existing extension to the rear of the appeal property already encloses the side of No 5's garden to a degree. The proposed shed, although modest in dimensions would nevertheless appear as a relatively tall structure as a result of its location on the most elevated part of the decking in relation to No 5's garden which is notably lower at this point than the patio immediately to the rear of No 5. This degree of elevation combined with its height and proximity to the boundary would mean it would appear as an imposing structure particularly when experienced in the part of No 5's garden adjacent to it, leading to an enclosing and overbearing effect.
8. The living conditions of the occupiers of No 5 would be materially harmed as a result and this part of the proposal would not comply with the residential amenity protection requirements of London Plan, 2016 Policy 7.6 and Local Plan DM Policy 31. It would also fail to accord with the National Planning Policy Framework's (the Framework) core planning principle of always seeking to secure a good standard of amenity for all existing occupants of land and buildings.
9. The appellant contends that the decking would be situated on top of an existing concrete patio and that a previous planning permission approved the retention of the patio. The Council's Officer Report notes that raised decking had been approved as part of a previous permission but that which was erected did not accord with the approved plans. Whilst I have not been presented with any details of this previous permission, on the basis of the information available, there would appear to have been some form of raised decking or patio area to the rear of the property, albeit of a different configuration to that proposed.
10. The decking would enable views into the garden of No 5 and back towards windows in its rear elevation. However, views of the rear of No 5 are already possible from the garden of No 3, albeit interrupted to a limited degree by existing boundary treatments and planting. Views of much of the lower part of No 5's rear garden are already afforded from within the large patio windows of No 3. Whilst users of the deck would be able to stand close to the boundary with No 5 and look into it should they choose, any loss of privacy that would result would not be materially more harmful than that which already exists between the two properties from the house itself and the garden of No 3, irrespective of any pre-existing or approved decking.

11. The decking would be set well away from the boundary with No 1 which is marked by a tall fence and there would be no harmful loss of privacy to the occupiers of that property or its garden as a result.
12. The living conditions of the occupiers of Nos 1 and 5 would not be materially harmed as a result and this element of the proposal would comply with the aforementioned development plan Policies' and the Framework's provisions for avoiding harm to the amenity of adjoining occupiers.
13. The shed would partially achieve the appellant's aim of preventing overlooking from the decking of No 5's garden. However, as I have found that the decking would not result in an unacceptable loss of privacy, a structure of the dimensions of the shed would not be necessary to provide such a visual barrier. This would therefore not outweigh its harmful effect.

### **Conditions**

14. It is necessary to require the acceptable part of the proposal accords with the approved plans as this provides certainty. This condition also needs to make it clear that it relates only to the decking and not to other development illustrated.

### **Conclusion**

15. For the above reasons the proposed shed would harm the living conditions of the occupiers of No 5 and would be contrary to the development plan and the Framework. The appeal is therefore dismissed in that respect.
16. For the above reasons the decking would avoid such harm and would comply with the development plan and the Framework, and the appeal is therefore allowed in that respect.

*Geoff Underwood*

INSPECTOR