



Appeal Decision

Site visit made on 21 July 2020

by M Madge DipTP, MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th August 2020

Appeal Ref: APP/G5750/C/19/3236679

Land at First Floor Flat, 53 Stock Street, Plaistow, London E13 0BX

- 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 Mrs Mohinder Kaur against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 9 August 2019.
 - The breach of planning control as alleged in the notice is without planning permission the erection of an external staircase.
 - The requirements of the notice are:
 1. Demolish the external staircase (as shown edged in yellow on the photograph attached at Appendix 1, and as shown in the approximate location in blue on the attached plan).
 2. On completion of step 1 above, remove all materials and debris from the site.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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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.

Preliminary matter

2. There are 2 planning applications of relevance to this property; Council references 18/02785/FUL (the 2018 PA) and 19/00041/FUL (the 2019 PA). These applications, respectively, sought to retain the development with alterations and to replace the development with an alternative staircase. Both applications have been refused permission and I am not aware that either of those decisions have been the subject of an appeal.

Reasons

3. The external staircase has been constructed to provide access from the first floor flat to its allocated garden space. The development includes a platform at first floor level, capable of accommodating outdoor seating, as well as the staircase, which runs from the platform down to ground level adjacent to the boundary with 55 Stock Street. The development projects over some of the garden space allocated to the ground floor flat.
4. The **main issues** are the effect of the development on the character and appearance of the existing property and terrace within which it is situated and its effect on the living conditions of neighbouring occupiers.

Character and appearance

5. The host property is a mid-terrace, two-storey dwelling with accommodation in its roof space. From the front, the property retains the appearance of a single dwelling, but it has been converted into two flats; one on the ground floor and one on the upper floors. The only means of access to both flats is via the front entrance door.
6. The rear of the terrace is not visible from the wider surrounding area, but it is visible from the gardens of the properties in this terrace and from properties located to the rear. A few properties in the terrace, including the host property, have a two-storey outrigger projection on the rear. Other properties have a variety of single-storey rear extensions. While there is an inconsistency of appearance to the rear elevations of the properties in the terrace, no other property has an external staircase. The staircase projects a significant distance beyond the established rear building line into what would otherwise be an open, undeveloped area. The staircase represents a visually incongruous feature, which is out of keeping with the host property and the terrace.
7. The need for the staircase arises to provide access from the first floor flat to its allocated garden space. The appellant argues that there is no other means for providing access to the garden. While the provision of garden space for the flat is a positive benefit for residents, there is no specific policy requirement for flats to be provided with private gardens. As such, the harm caused by the incongruous nature of the external staircase is not outweighed by the desirability to provide access to the garden space.
8. The external staircase is visually incongruous and fails to respect the character and appearance of the existing property and the terrace within which it is situated. For these reasons, the development is contrary to policies 7.4 and 7.6 of the London Plan March 2016 (the LP), and policies S6, SP1, SP3 and SP8 of the Newham Local Plan December 2018 (the NLP), which seek, amongst other things, to ensure development delivers high quality design that respects established character and scale.

Living conditions

9. The properties on Stock Street have rear facing windows at first floor level and as such there is an established degree of overlooking to each property's private garden. Occupiers of the First Floor Flat can stand or sit on the platform, as well as having views of neighbouring gardens when progressing up and down the staircase. This has introduced activity at heights that would not otherwise exist, leading to a greater perception of overlooking and loss of privacy for neighbouring residents.
10. The development partially covers the garden serving the ground floor flat. While the remaining garden provides an adequate outdoor space, the development also covers a rear facing window. This ground floor window is obscure glazed, but the presence of the staircase would reduce light levels within the room the window serves, if only to a limited degree.
11. The access door onto the platform and staircase from the first-floor flat is located adjacent to a first-floor window at No55. The coming and going of occupiers of the flat through this door and up and down the external staircase

would cause an unacceptable level of noise nuisance, disturbance and loss of privacy for adjacent residents.

12. For the reasons given above, the development would have an adverse effect on the living conditions of adjacent residents. It would be contrary to policies 7.4 and 7.6 of the LP, and policies SP1, SP2, SP3 and SP8 of the NLP, which seek, amongst other things, to ensure development respects the amenity of existing residents.
13. Section 177(1)¹ makes provision for planning permission to be granted in whole or in part for the matters stated in the notice as constituting the breach. The alternative schemes set out in the 2018 PA and the 2019 PA include the replacement of balustrades, a reduction to the size of the platform and replacing the whole structure with a different external staircase. The 2018 PA scheme would not address the harms identified above and the 2019 PA scheme does not form part of the matters alleged in the notice. I find that neither of these schemes represent an acceptable alternative to the matters stated in the notice.

Conclusion

14. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

M Madge

INSPECTOR

¹ Town and Country Planning Act 1990 as amended