



Appeal Decision

Site visit made on 29 September 2020

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 October 2020

Appeal Ref: APP/C5690/C/20/3246052 29 Hengrave Road, London SE23 3NW

- 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 Timothy Thompson against an enforcement notice issued by the Council of the London Borough of Lewisham.
 - The enforcement notice was issued on 31 December 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of an external staircase, platform landing and bamboo screening at 29 Hengrave Road, London SE23 3NW.
 - The requirements of the notice are:
 - 1) Demolish the external staircase outlined in red in Photo 1.
 - 2) Demolish the platform landing outlined in red in Photo 2.
 - 3) Demolish the bamboo screening outlined in red in Photo 3.
 - 4) Remove all materials, debris, waste and equipment resulting from compliance with 1 from the Property and its curtilage.
 - The period for compliance with the requirements is 3 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.
-

Decision

1. It is directed that the enforcement notice is:
 - corrected by deleting the existing fourth requirement, under section 5 (what you are required to do), and replacing it with the following:
 - 4) Remove all materials debris, waste and equipment resulting from compliance with requirements 1, 2 and 3 from the Property and its curtilage.
2. Subject to this correction, the appeal is dismissed, and 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.

Procedural Matter

3. The fourth requirement of the notice, under section 5 (What you are required to do) refers only to compliance with step 1, whereas it is clear that it should also include steps 2 and 3. My understanding of the notice is not affected by this minor error, and nothing within the appellants' submissions indicates to me that it has been misunderstood by them as a result. Therefore, I consider that

a correction is necessary which can be achieved by using my powers under s176(1)(a) of the Act without causing injustice.

Ground (a) appeal and the Deemed Planning Application

Main Issues

4. The main issues are the effect of the development on:
- the character and appearance of the area; and
 - the living conditions for the occupiers of Nos 31 Hengrave Road with particular regard to privacy and outlook.

Reasons

Character and appearance

5. The external platform landing and staircase given its design, made from painted timber and bamboo screening together with its overall height at first floor level forms a tall, obtrusive and incongruous feature, which is at odds with the prevailing character of the area.
6. I conclude that the development harms the character and appearance of the area and conflicts with Policy 7.4 of the London Plan, 2016, Policy 15 of the Lewisham's Core Strategy Development Plan Document, 2011 (CS), DM Policy 30 of the Lewisham's Development Management Local Plan, 2014 which together seeks to ensure that all development attain a high standard of design.

Living Conditions of Neighbouring Occupiers at No 31 Hengrave Road – Privacy and outlook

7. In respect of privacy, the proposed platform landing and stairs is in close proximity to the adjacent property and rear garden of No 31 Hengrave Road. I acknowledge that there is currently a view of the neighbouring rear gardens from the upper floor windows of the appeal property, and there are differences in land levels in the area. Notwithstanding this, the use of the external platform and staircase increases the degree of overlooking of this immediately adjacent property and rear garden, which is detrimental to the privacy of the occupiers of No 31.
8. I appreciate that the platform is limited in size. However, the limited floor area of the platform does not mitigate against overlooking. I acknowledge that appropriate screening could be installed which could mitigate the harm to the living conditions of the occupiers of No 31 in this respect. The details of that screening could be required by a planning condition and it may be possible to consult third parties on those details.
9. However, the Planning Practice Guidance on the use of planning conditions¹ states that "*If a detail in a proposed development, or the lack of it, is unacceptable in planning terms the best course of action will often be for the applicant to be invited to revise the application. Where this involves significant changes, this may result in the need for a fresh planning application*". It goes on to state that "*it would not be appropriate to modify the development in a way that makes it substantially different from that set out in the application.*"

¹ Paragraph: 012 Reference ID: 21a-012-20140306

10. I consider that to ensure sufficient screening of views at all times of the year are maintained a physical boundary treatment rather than landscaping, would be required. That screening could modify the development substantially with regard to the character and appearance of the property and its impact the living conditions of the adjoining occupiers. As such, I consider that a condition requiring those details would not be reasonable in this case.
11. Consequently, without sufficient screening, I conclude that the development has a harmful effect on the living conditions of the occupiers of neighbouring occupiers at No 31 with regards to privacy.
12. With regards to outlook, the wooden external platform, steps and bamboo screening, constructed close to the boundary with No 31 appears tall, obtrusive and dominant when viewed from the rear windows and garden area of No 31. This results in harm to the living conditions for these neighbouring occupiers with regards to outlook.
13. I therefore conclude that the unauthorised development results harm to the living conditions for the occupiers of No 31, with regard to privacy and outlook, in conflict with Policy 15 of the CS, which amongst other things, requires all development to be sensitive to the local context. The appeal would also conflict with paragraph 127 of the National Planning Policy Framework (Framework), which states that development should ensure high standards of amenity are created for future as well as existing users.

Conclusion

14. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice, with a correction, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR