
Appeal Decision

Site visit made on 22 September 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2020

Appeal Ref: APP/J1535/D/20/3255048

2 High Silver, Loughton IG10 4EL

- 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 James Berlin against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0380/20, dated 17 February 2020, was refused by notice dated 14 April 2020.
 - The development proposed is described as 'change of decking shape to rear garden – levels are as per previous approved application EPF/3242/17'.
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Decision

1. The appeal is allowed and planning permission is granted for rear decking at 2 High Silver, Loughton IG10 4EL in accordance with the terms of the application, Ref PL/EPF/0380/20, dated 17 February 2020, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PL-01; and PL-03.

Application for costs

2. An application for costs was made by Mr James Berlin against Epping Forest District Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The decking that is subject of the appeal has already been constructed. I was therefore able to see and access the decking at my site visit.

Main Issue

4. The main issue is the effect of the decking on the living conditions of the occupiers of neighbouring properties, with particular regard to privacy and outlook.

Reasons

5. High Silver is a residential cul-de-sac comprising 2 storey detached dwellings. The road has a fairly steep gradient, and so the land level of the appeal property is higher than No 1 and lower than No 3. The rear boundary of the appeal site adjoins the rear gardens of properties in Southernhay.

6. The decking to the rear of the 2 storey extension is rectangular in shape and projects around 4 metres into the garden. It is roughly level with the internal floor level and is raised about 1.3 metres above the level of the garden. There are steps to the side which provide access to a lower section towards the boundary with No 1. The decking is enclosed by clear-glazed balustrades.
7. The decking is large enough to be used as a socialising and recreation space, and it enables elevated views towards the rear garden of No 1. Nevertheless, the most elevated section of the decking maintains a sizeable separation to the boundary with No 1. The boundary vegetation also filters views towards the neighbouring property. The lower section of the decking is a modest amount above ground level and therefore any additional overlooking from this part is limited. In context of the urban location of the appeal site where some overlooking of gardens is to be expected, these factors ensure that the decking has not caused an unacceptable loss of privacy to the occupiers of No 1.
8. The higher land level of No 3, taken together with the screening provided by the boundary fence, ensures that the decking does not cause a significant degree of overlooking into the neighbouring garden.
9. The decking maintains a sizeable distance to the rear boundary, which, along with the mature hedging along that boundary, restricts views from the decking into the gardens of neighbouring properties in Southernhay.
10. The frameless transparent glass of the balustrades and the set in of the decking from the boundaries ensures that it has limited impact on the outlook from neighbouring properties.
11. I therefore conclude that the decking has not caused significant harm to the living conditions of the occupiers of neighbouring properties with respect to privacy and outlook. It therefore accords with saved Policies DBE2 and DBE9 of the Epping Forest District Local Plan Alterations 2006 and emerging Policy DM9 of the Epping Forest District Local Plan Submission Version 2017, which, amongst other things, seek to protect the privacy and amenity of neighbouring occupiers. The decking also complies with paragraph 127 of the National Planning Policy Framework, which, along with other things, seeks to create places with a high standard of amenity for existing users.
12. The appellant and the Council indicate that a fallback position is provided by a raised terrace shown on the approved drawing for planning application EPF/3242/17. I appreciate that the existence of a fallback position is disputed by a local resident and Loughton Residents Association. Nevertheless, I have found that the decking accords with the development plan. Therefore, whether or not a fallback position exists, this is not determinative to the appeal.
13. I have had regard to the representations from Loughton Town Council, Loughton Residents Association and local residents. However, this would not alter my decision.

Condition

14. I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is for the avoidance of doubt and in the interests of certainty.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

C Osgathorp

INSPECTOR