



Appeal Decision

Site Visit made on 25 June 2021

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2021

Appeal Ref: APP/J1535/C/20/3255933

Three Trees, Grange Lane, Roydon CM19 5HG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Miss Jenna Marsh against an enforcement notice issued by Epping Forest District Council.
 - The enforcement notice was issued on 10 June 2020.
 - The breach of planning control as alleged in the notice is without planning permission: The unauthorised erection of glass panels to form a terrace/balcony on the roof of the single storey rear extension.
 - The requirements of the notice are to:
 - i. Remove the glass panels from the roof of the single storey rear extension.
 - ii. Remove all resultant debris from the Land following compliance with step i above.
 - The period for compliance with the requirements is: Within 2 months after this notice takes effect.
 - 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.
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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 Matters

2. The Council issued an enforcement notice on 3 June 2020, however, this was withdrawn and a second notice issued on 10 June 2020. For the avoidance of doubt, this appeal relates to the notice that was issued on 10 June 2020.
3. The enforcement notice makes reference to policy DM7 of the Epping Forest Local Plan (Submission Version) 2017. The Council has provided Policy DM9, which relates to high quality design and seeks development which contributes to the amenity of the local area. Although the Council has resolved that the Submission Version of the Local Plan should be a material consideration to be used in determination of planning applications, it would not significantly change the approach from those in the adopted plan, set out in Policy DBE9 of the Epping Forest Local Plan (1988) and Alterations (2006)(EFLPA) and so, does not have any significant bearing on my decision.
4. Since the appeal was lodged, the Government published its revised National Planning Policy Framework (July 2021). The parties have had the opportunity to comment on the implications of the changes during the appeal process.

Main Issue

5. The main issue is the effect of the appeal scheme on the living conditions of neighbouring residents at Silverknowes with particular regard to overlooking.

Reasons

6. The appeal site comprises a detached property which is located in a generally residential area and is bound on either side by residential properties, The Nook and Silverknowes. Glass panels have been erected above a single storey rear extension around a section of the roof to provide an outdoor seating area, with access gained via double doors from a first floor bedroom. A series of planters are located on the flat roof, beyond the seating area, which, at the time of my visit contained a variety of shrubs.
7. Whilst there is extensive mature vegetation between the appeal site and The Nook, planting along the boundary with Silverknowes is far less extensive, particularly along the section closest to the seating area. Given the limited planting, the height of the balcony and its proximity to Silverknowes, the balcony affords direct views across a substantial portion of its rear garden. Users of the seating area are able to peer into the garden, significantly diminishing levels of privacy for existing and future users of the rear garden of Silverknowes.
8. Although the appellant has provided planting on the remainder of the flat roof, the planting does not prevent views of the neighbouring garden to people standing on the roof and could be easily removed. Furthermore, maintaining the planting would necessitate access to the part of the flat roof closest to Silverknowes, resulting in an even greater potential for overlooking. The appellant asserts that the Council's building inspector and planning officer attended the site and agreed that it protects the appellant's privacy as well as neighbours. However, the Council has not withdrawn the notice.
9. The appellant suggests it may be possible to install a conifer hedge along the boundary. However, I have no substantive details before me of what this would comprise. The hedge would need to be sufficiently high in order to interrupt views from the seating area. I consider it highly likely that such a hedge would, in itself, affect the reasonable enjoyment of the garden of Silverknowes. Consequently, it would not be reasonable to secure this by condition.
10. The appellant submits the balcony and 'green screens' protect their privacy, as without it neighbours can look directly into their bedroom. However, there is nothing to prevent the appellant from planting vegetation along their boundary. Furthermore, the glass panels are transparent, and do not therefore restrict views into the bedroom. Whilst the occupants of the neighbouring property could choose to reinstate greenery between the two properties, it would not be possible to secure such planting by condition since the neighbouring property is outside of the appeal site.
11. Policy DBE 9 of the Epping Forest Local Plan (1988) and Alterations (2006)(EFLPA) seeks to ensure that development does not result in an excessive loss of amenity for neighbouring properties, taking into account overlooking, amongst other things. Even if the interested party who raised concern is in the process of moving home, such a policy seeks to protect the amenity of both existing and future occupants of neighbouring properties.

12. Whilst the balcony may have been built to a very high standard and meet building regulations, such matters are a neutral factor in my consideration of the appeal and do not outweigh the harm I have identified above.
13. The appellant suggests at least 7 other properties down the lane have similar balconies erected. However, I have no substantive details and cannot be sure that any such balconies are comparable to the appeal scheme before me.
14. The appellant asserts there are numerous possibilities other than removal, however, I have no alternative schemes before me and am therefore unable to give this matter weight.
15. Thus, for the reasons given above, I conclude that the appeal scheme has resulted in a harmful loss of privacy to users of the rear garden of Silverknowes, contrary to Policy DBE9 of the EFLPA, the requirements of which are set out above.

Conclusion

16. I conclude that the development conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken otherwise in accordance with the development plan. 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 Savage

INSPECTOR