



Appeal Decision

Site visit made on 13 September 2021

by P N Jarratt BA DipTP MRTPI

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

Decision date: 27 September 2021

Appeal Ref: APP/D0121/C/21/3274099

1 Kilkenny Place, Portishead, Somerset, BS20 6JD

- 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 Kevin Pilgrim against an enforcement notice issued by North Somerset Council.
 - The enforcement notice, numbered 20/00356/UAW, was issued on 23 March 2021.
 - The breach of planning control as alleged in the notice is the erection of a rear and side balcony (shown marked in blue on the plan attached to the notice).
 - The requirements of the notice are to remove the balcony and all resulting materials from the land.
 - The period for compliance with the requirements is three 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.
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Decision

1. It is directed that the enforcement notice
 - i) be corrected by the deletion of the words 'rear and side balcony' in the allegation and their replacement with the words 'raised platform' and;
 - ii) varied by the deletion of the word 'balcony' from the requirements of the notice and its replacement with the words 'raised platform'.

Subject to these corrections and variations 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 matters

2. The appellant regards the structure to be a decked area and not a balcony, and considers this to be permitted development. Whilst I note that no appeal has been made on ground (c), (that there has not been a breach of planning control), the appellant has described the area as a balcony as part of the retrospective planning application. In my view the development is composed of a raised platform, which is a platform with a height greater than 0.3 metres. Sections of it bridge over part of the garden whilst another section appears to be set about 0.3 metres above the level of the original patio. Nevertheless, taken as a whole, the development is unauthorised and does not benefit from any permitted development rights. Notwithstanding this, the allegation would

be better described as the erection of a raised platform and I will correct the notice accordingly and vary the requirements to reflect this. Irrespective of the description used, the development requires planning permission.

3. The appellant raises issues regarding objections made at the time of the planning application but no appeal was made against that decision at the time I am concerned solely with the ground (a) appeal against the enforcement notice in this appeal.

Main Issue

4. The main issue is the effect of the development on the character or appearance of the Portishead West Hill and Welly Bottom Conservation Area.

The appeal on ground (a)

5. An appeal on this ground is that planning permission should be granted for the breach of control. A retrospective application for the erection of a rear/side balcony was refused in February 2021.
6. The appeal property is a three storey town house constructed on a site that slopes downwards to the rear and contains an extensive area of decking. Adjacent to the ground floor at the rear is a raised platform extending the full width of the plot. It appears to have been raised above the original external patio area by about 300mm and it has been extended into the garden and has a flight of steps giving access. The void beneath this part of the raised platform is used for domestic storage.
7. The raised platform has also been extended towards the side boundary adjacent to the highway by bridging over a side footpath giving access to the rear. Adjacent to the highway is a stone wall, above which is a fence running along the boundary. A two section fence/privacy screen has been erected on top of the raised platform which protrudes above the height of the fence and is visible from public viewing points outside the site. The combination of the height of the raised platform, the erection of the privacy screen above it and the proximity of both to the boundary make the development appear incongruous and harmful to the appearance of the Conservation Area and to the host building.
8. Although the development leads to less than substantial harm to the significance of the designated heritage asset, paragraph 202 of the National Planning Policy Framework indicates that this harm should be weighed against the public benefits of the proposal, which in this case, do not exist as all the benefits are private. Policy DM3 of the Local Plan seeks to ensure that development will not cause harm to the character or appearance of the Conservation Area and the development fails to accord with this policy.
9. I note the appellant's comments about the other policies referred to by the Council in their reasons for issuing the notice but these do outweigh the harm caused by the development to the appearance of the Conservation Area.
10. Whilst it is possible that the more harmful effects of the decking and privacy screen could be mitigated to some degree by the removal of the privacy screen and that part of the decking that bridges over the path, in the absence of any proposals from either party for such mitigation it is not possible to fully appreciate the extent to which the harm might be reduced. In the

circumstances therefore I do not consider it appropriate to issue a split decision granting permission for part of the development and upholding the notice for the other part.

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

P N Jarratt

Inspector