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# Appeal Decision

Site visit made on 5 September 2022

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16th November 2022**

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**Appeal ref: APP/W5780/C/21/3272419**

**Land at 81 Grenville Gardens, Woodford Green IG8 7AE**

- 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 Sanjeev Sivapathalingam against an enforcement notice issued by the London Borough of Redbridge.
  - The notice was issued on 11 March 2021.
  - The breach of planning control as alleged in the notice is without planning permission, the unauthorised construction of a raised rear patio, raised and cemented, rear garden and overheight boundary wall.
  - The requirements of the notice are:
    - (i) remove the unauthorised rear patio in its entirety;
    - (ii) remove the cemented ground and reinstate the natural ground level of the rear garden.
    - (iii) remove the overheight raised boundary wall;
    - (iv) and clear from the land all building materials and rubble arising from compliance.
  - The period for compliance with the requirements is within 6 months from the date of this notice taking effect.
  - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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**This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 23 September 2022.**

## Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

## The appeal on ground (a) / the deemed planning application

### Main issue

2. I consider that the main issue is the effect of the raised rear patio and garden and the boundary wall on: (a) the living conditions of the occupants of 79 Grenville Gardens, with regards to privacy, sunlight and daylight; and (b) surface water runoff.

### Reasons

#### *Living conditions*

3. The appeal property is a two storey mid-terraced dwelling with a rear garden that adjoins neighbouring rear gardens to either side. To the north is No. 79. This property benefits from a single storey rear extension which leads out to its rear garden, which is situated on lower ground than the appeal property and its garden. The rear extension at No. 79 is set back from the extension erected at

the appeal property following a prior approval application for a 6 metre rear extension (Council Ref: 1459/15). A 2.4 metre high parapet wall, which forms part of No. 83's rear garden, extends along part of its boundary with No. 81.

4. Prior to the works taking place, ground levels within the rear garden of the property are said to have fallen away towards the rear boundary by an estimated 1.2 metres. The patio erected provides level access from the kitchen before a staircase leads down into the rest of the rear garden. The ground between the patio and the outbuilding has been raised, hard surfaced and covered in artificial grass to create a level area. Steps lead down from the garden to an outbuilding along the rear boundary of the site.
5. The tall solid boundary wall erected along the boundary with No. 79 accentuates the difference in ground level between the two gardens. Given its position and height, and the orientation of the properties concerned, it reduces the amount of sun and daylight able to reach the room to the rear of No. 79 and its garden as it elongates the tall expanse of built form deeper into the plot. This means that the living conditions of the occupants at No. 79 are affected earlier in the day and for longer than they would be by a lower boundary treatment. The boundary wall has also created an undue sense of enclosure. Whilst it may be of a similar height as the boundary wall between Nos 81 and 83, I do not know how this came to be. Furthermore, whilst the occupants of No. 79 have raised their timber boundary fence to match the height of the new wall, this does not justify the height and effect of the boundary wall erected at the appeal site. The new fence at No. 79 is a matter for the Council to consider outside of this appeal.
6. The patio is elevated above the remainder of the appeal property's rear garden. The boundary walls mean that there are no privacy impacts from persons using the patio. However, this does not change my view that height of the wall next to No 79 is unacceptable for other reasons. Because of that, any lower boundary treatment is likely to mean that persons using the patio would potentially be able to peer over the boundary and into the rear-facing room of No. 79. Whilst some degree of overlooking into rear gardens or rear-facing rooms is to be expected given the layout of properties in the area, the relationship is likely to adversely affect the privacy of its occupants.
7. However, even with the level of the rear garden being raised and hard surfaced, it does not cause neighbouring occupants to be overlooked or suffer a loss of privacy due to the tall boundary treatments on either side of the appeal site. I maintain this view notwithstanding the height of the boundary wall immediately next to the patio along the boundary of Nos. 79 and 81.
8. Accordingly, I conclude that the raised rear patio and the boundary wall adversely impact the living conditions of the occupants of No 79, with regards to privacy, sunlight and daylight and therefore conflict with Policies LP26 and LP30 of the Redbridge Local Plan 2015 - 2030. Jointly, these seek development that does not result in an adverse impact upon the amenity of neighbouring occupiers in relation to overlooking and privacy, loss of sunlight and daylight.

#### *Surface water runoff*

9. The raised patio, garden and boundary wall are built from a non-porous material and there are no gaps between them or any drainage provision for surface waters. Ground levels on the appeal site seem to be higher than those within the rear garden of No. 79. The occupant at No. 79 suggests that the works have affected local drainage conditions. Beyond No. 79's rear patio is a landscaped

border next to the boundary. This did not seem to be affected by surface waters from the appeal site. Nor is there any substantive evidence to support the point that No. 79's garden is damp, boggy or no longer usable for gardening.

10. However, Local Plan Policy LP32 sets out criteria for sustainable design and construction and section 3 (b) requires that permeable surfaces and sustainable drainage be used to help reduce water run-off. The submitted plans state that no surface water will drain to neighbouring properties. That may be the case, but the raised patio, garden and boundary are not made of permeable surfaces and there is no drainage provision on the site to help address or reduce surface water run-off. As such, conflict arises with Local Plan Policies LP26 and LP32 together with Policy 5.13 of The London Plan as harm is caused by virtue of the lack of permeable surfaces and a sustainable drainage system to ensure that there is not an increased surface water flood risk.

### **Other matters**

11. I have considered the appellant's efforts to ensure a satisfactory transition between the rear extension and the falling ground levels in the rear garden for health and safety reasons, but this is not sufficient to outweigh my findings set out above.
12. The Council cite the loss of the view over the hill to the south-east, but the change or loss of a private view from a window is not of itself regarded as a planning matter.

### **Conclusion**

13. Having regard to my conclusion on the main issues and all other matters raised, I am satisfied that ground (a) should fail and the deemed application for planning permission should be dismissed.

### **Formal decision**

14. For the reasons set out above, I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Andrew McGlone*

INSPECTOR