



Appeal Decisions

Site visit made on 7 March 2023

by Elaine Gray MA, MSc, IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 May 2023

Appeal A Ref: APP/J4525/C/22/3306804

2 Blyth Square, Sunderland SR5 4HJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Lisa Eadington against an enforcement notice issued by Sunderland City Council.
 - The notice is dated 15 August 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the re-grading of the front garden, extension of the existing hardstanding and erection of decking to the front of the property.
 - The requirements of the notice are: (i) With reference to the photograph "EN1" and plan "EN2" ("proposed site plan" and "proposed elevation") attached to the notice, dismantle the timber decking, balustrade and supporting structure in their entirety. (ii) With reference to plan "EN2" attached to the notice, remove "concrete setts" from the area annotated as "lawn" on the "existing site plan" and reinstate the front garden in accord with the "existing site plan" by excavating substrate and sub soils and using imported topsoil, as required, to restore the contours of the sloping front garden, finished with turf or sown with lawn quality grass seed. (iii) Remove from the land the dismantled materials and all wastes arising from fulfilling requirements (i) and (ii) above.
 - The period for compliance with the requirements is: Three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) 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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Appeal B Ref: APP/J4525/W/22/3306421

2 Blyth Square, Sunderland SR5 4HJ

- 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 Mrs Lisa Eadington against the decision of Sunderland City Council.
 - The application Ref 22/01275/FUL, dated 6 June 2022, was refused by notice dated 8 August 2022.
 - The development is described as 'Proposed increase in hardstanding and decking to the front garden'.
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Decisions

1. It is directed that the period of compliance be varied by the deletion of the text 'Three months' and its substitution with the text 'Six months'.
2. Appeal A is dismissed, the deemed planning application is refused, and the enforcement notice, as varied, is upheld.
3. Appeal B is dismissed.

Appeal A on ground (a) and Appeal B

Main Issues

4. The main issues are the effect of the development on: The living conditions of neighbouring residents, with particular reference to overlooking and privacy; and the character and appearance of the surrounding area.

Reasons

5. The appeal site is a two storey mid-terrace dwelling located in an area of similar properties. Prior to the development taking place, the front plot at No 2 comprised a strip of concrete setts leading from the access to the main entrance of the dwelling. Adjacent to this was a lawned area which sloped down towards the adjoining dwelling at 1 Blyth Square, which is set at a lower level.
6. The development comprised the raising of the previously lawned area so that the whole front plot is on the same level as the original concrete strip. The lawn has been removed and replaced with concrete setts, which provides a larger parking area on one level. In addition, an area of decking with timber balustrading has been constructed.

Living conditions

7. The Council's document entitled 'Development Management Supplementary Planning Document' (SPD) advises that new decking will only be considered acceptable if it does not cause intrusive overlooking of the gardens and windows of neighbouring properties. Where overlooking of neighbouring properties will occur, consideration should be given to whether this can be alleviated by screening of the decking area.
8. The decking area is in close proximity to the ground floor bay window at No 1, which appears to serve a habitable room. I acknowledge that this part of the garden could be used for sitting out without the decking. However, it is inevitable that its presence will focus such activities in this particular area.
9. Due to the raised ground level at the appeal site, the decking enables much more intrusive and direct views towards the window at No 1 than would otherwise have been the case. The height and position of the decking also allows for a greater degree of overlooking of the front garden at No1.
10. As set out above, the SPD allows for the consideration of screening to mitigate overlooking. I note that the appellant suggested amending the scheme to provide a screen to the side of the decked area. However, the Council considered that such a screen could have appeared overbearing to the neighbours, and would have had a greater effect on the character and appearance of the area.
11. The appellant argues that such screening could be installed using the permitted development rights available at the property. She suggests that such a boundary treatment could be subject to a condition, were I to allow the appeal. However, without a drawn up scaled example that takes into account the varying ground levels, I cannot be certain that a satisfactory solution would be arrived at.

12. I therefore conclude that the development gives rise to a degree of overlooking that unacceptably harms the privacy of neighbouring residents at No 1. The development is thus contrary to Policy BH1 of the Sunderland City Council Core Strategy and Development Plan 2015-2033 (CSDP), which amongst other things, requires acceptable levels of privacy and seeks to ensure a good standard of amenity for all existing and future occupiers of land and buildings.

Character and appearance

13. CSDP Policy BH1 requires that proposals should achieve high quality design. To that end, development should be of a scale, massing, layout and appearance that respects and enhances the positive qualities of nearby properties and the locality.
14. The SPD advises that decking is more likely to be appropriate in the case of large, detached properties with spacious gardens or where screening is provided by existing buildings or boundary features. New decking must also be of an appropriate design and appearance and where it is visible to the public, it must relate satisfactorily to its surroundings.
15. On my visit, I saw that the garden areas within Blyth Square generally have a high degree of visibility from the public realm. Although there is some variation in the treatment of the front plots in the vicinity of No 2, most had a mixture of grass alongside areas of hardstanding for parking and access to the house. These green elements softened the appearance of the properties and added to the general appearance of the area.
16. Dwellings with their front areas covered entirely in hardstanding were in the minority. By contrast, the covering of the whole frontage of the appeal with a single material results in a stark, flat appearance that is at odds with the overall character of the street.
17. The decking is visually dominant in the street, an effect that is exacerbated by the raised ground level where it sits. I did not see evidence of any other similar examples of decking in the vicinity. There is therefore little evidence that the development is in keeping with the prevailing built form of the surrounding area.
18. Drawing these factors together, I therefore conclude that the development unacceptably harms the character and appearance of the surrounding area, contrary to CSDP Policy BH1.

Other Matters

19. I have taken into account the references to the parking conditions and highway safety in the area. However, I note that the Council have raised no concerns on these matters.
20. In terms of detailed or quantified evidence, the appellant provides a total of four photographs showing cars parked in the cul-de-sac. These photographs are not dated or time stamped, and it is difficult to tell how representative they are of the prevailing parking conditions. It may be that residents have experienced inconvenience in terms of parking, but that is not the same as it being hazardous, and a grant of permission would therefore not be justified on these grounds.

21. I accept that the rear plots on the side of No 2 are over-shadowed and of limited quality in terms of the amenity they offer. This means that the front plots are rather more important in terms of the quality of life of residents, and their ability to socialise. However, it may be that these benefits could be achieved through a more sympathetic scheme of works.
22. I have taken account of all other representations provided by interested parties, but they have not led me to a different conclusion on the main issues above.

Conclusion

23. For the reasons above, Appeal A on ground (a) and Appeal B are dismissed.

Appeal A on ground (f)

24. Ground (f) is that the steps required to comply with the requirements of the notice are excessive
25. The appellant argues that the hardstanding is of a design and appearance that is not out of keeping in a residential setting. On that basis, the requirement to remove it is excessive. As may be seen from the discussion above, I have found the hardstanding to be unacceptable in terms of its visual impact within this particular context. The purpose of the notice is to remedy the breach, and the removal of the hardstanding, along with the rest of the development, would achieve that aim.
26. The appeal on ground (f) therefore fails.

Appeal A on ground (g)

27. Ground (g) is that the time frame of three months given to comply with the notice is too short.
28. The appellant argues that as they cannot undertake the work themselves, they will need to obtain quotes from suitable companies and then agree a schedule for the completion of the works. These actions are reliant on external parties and so are out of the control of the appellant. On that basis, there is no guarantee that such companies will provide quotes in a timely manner, or that they will be available to undertake the works within three months of the appeal decision.
29. I agree that, particularly in view of the need to re-contour the ground levels, three months is a tight timescale. I therefore consider that 6 months would give sufficient leeway to carry out the requirements, given the need to contract third parties to carry out the works.
30. To that extent, the appeal on ground (g) succeeds.

Conclusion

31. Appeal A is dismissed, the deemed planning application is refused, and the enforcement notice, as varied, is upheld.
32. Appeal B is dismissed.

Elaine Gray INSPECTOR