



Appeal Decisions

Site visit made on 10 October 2023

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th October 2023

Appeal A Ref: APP/W5780/C/22/3313165

Appeal B Ref: APP/W5780/C/22/3313166

Land at 5 Caterham Avenue, Clayhall, Ilford IG5 0QA

- Appeals A and B are made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Mr Usman Zia (Appeal A) and Miss Palvasha Zia (Appeal B) against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The notice, numbered E0800/21, was issued on 18 November 2022.
 - The breach of planning control as alleged in the notice is unauthorized decking.
 - The requirements of the notice are to: i) remove the decking in its entirety ii) or reduce the height of the decking to comply with permitted development height of 0.3 metres.
 - The period for compliance with the requirements is: in full no later than 13/01/2023.
 - The appeals are proceeding on the grounds set out in section 174(2)(c) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decisions

1. It is directed that the enforcement notice is corrected by:
 - the deletion of '13/01/2023' and the substitution of '1 month after this notice takes effect' as the time for compliance.
2. Subject to the correction, the appeals are dismissed, and the enforcement notice is upheld.

The Enforcement Notice

3. I have a duty to ensure that the enforcement notice is in order. Under s176(1) of the Act, as amended, it is open to me to correct any defect, error or misdescription in the enforcement notice or to vary its terms provided I am satisfied that the correction or variation will not cause any injustice.
4. The time period for compliance as stated on the notice is a specific date which has now passed. The appellants could not therefore comply with that given that they have exercised their right of appeal. Changing the date to a time period i.e. a month, puts the notice on a proper footing and matches the time period that the appellants would have had to comply with the notice if it were not appealed. Therefore, no injustice will be caused as a result.

The appeals on ground (c)

5. The appeals under ground (c) are that those matters do not constitute a breach of planning control.
6. Under Class E, Part 1 of Schedule 2 of the Town and Country Planning (General

Permitted Development) (England) Order 2015 as amended (the "GPDO") development is not permitted by this class if it includes the construction or provision of a veranda, balcony or raised platform. In relation to the latter, which is the subject of the notice, raised means a platform with a height greater than 0.3 metres.

7. The appeal property is raised above ground levels in the road and its rear garden. The raised decking erected to the rear of the dwelling enables level access from the doors in the rear elevation before a small flight of steps into the garden. However, the raised decking is higher than 0.3 metres from the ground level in the garden. Regardless of the height above that threshold, it remains the case that the raised decking requires planning permission.
8. Given this and as no planning permission has been granted for the development subject of the notice, I conclude that the appeals on ground (c) therefore fail.

The appeals on ground (f)

9. The appeals under ground (f) are that the appellants consider that the notice's remedial steps go beyond what is reasonably necessary to remedy the identified harm. In this respect it is important to assess whether the purpose of the notice is to remedy the breach or, alternatively, to remedy any injury to amenity. In this case, the notice seeks to remedy the breach.
10. The appellants contend that the steps within the notice are excessive based on the raised platform being over the threshold to be permitted development, but by less than 10cm, and given the site's ground levels.
11. Leaving the raised decking as it currently is would not remedy the breach, and no alternatives have been suggested by the appellants. Considering this, the reasons for the notice and requirement ii), the remedial steps do not go beyond what is reasonably necessary to remedy the breach. I note the points raised in relation to accessibility, tree planting, security, privacy and the health and wellbeing of the occupants, but I am not able to consider the planning merits raised under ground (f). Furthermore, the cost of the works is not a matter that I can take into account in respect of this ground.
12. Hence, these requirements are the sole steps that would overcome the harm to the living conditions of neighbouring occupiers and the character and appearance of the host property and the area. They are not excessive to remedy the breach of planning control. For the reasons set out, I conclude that the appeals on ground (f) must fail.

Conclusions

13. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction.

Andrew McGlone

INSPECTOR