



Appeal Decision

Site visit made on 5 April 2024

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th April 2024

Appeal Ref: APP/D1265/W/23/3332185

101 Damers Road, Dorchester, DT1 2LB

- 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 Mr Suguna Balasundaram against the decision of Dorset Council.
 - The application Ref. P/HOU/2023/03387, dated 12 June 2023 was refused by notice dated 16 August 2023.
 - The development proposed is retain raised platform to be used as garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have adopted the description of development as set out in the decision notice as this is more concise than that on the application form.
3. Since the application was refused planning permission a revised version of the National Planning Policy Framework (Framework) was issued in September and then in December 2023. However, the relevant policies remain the same as in the previous version, albeit some of the paragraph numbering has changed.
4. A previous proposal for a vehicular crossover and creation of a parking space to the front of the appeal property was dismissed on appeal on the 24 March 2023 (ref. APP/D1265/D/22/3313138) (2023 Appeal). At the time of that decision, a hardstanding to provide a parking space at the front of the appeal property had already been completed. Following this dismissal, I understand that a fence was erected on the front boundary of the appeal site but that the Council informed the Appellant that the hardstanding (raised platform) should either be removed or that an application for planning permission be submitted to retain it. The Appellant chose the latter course of action, and that application was subsequently refused by the Council and is now the subject of this appeal.
5. In its evidence to this appeal the Appellant has raised a question over the lawfulness of the raised platform. Within the context of an appeal that seeks planning permission and is submitted under section 78 of the Town and Country Planning Act 1990 (T&CPA), I can only consider the proposal as submitted, which in this case is to retain the raised platform for use as a garden. Whether the development or part of it is permitted development and thus lawful is not a matter that I can address under section 78 of the T&CPAA. It remains open to the Appellant to submit an application for a Lawful Development Certificate for existing development, under section 191 of the T&CPA, if they consider that any part of the development is lawful, and the

determination of that application would not be affected by my decision on this appeal.

Main Issues

6. The main issues are the effect of the development on: (a) the character and appearance of the streetscene; and (b) the living conditions of neighbouring occupiers.

Reasons

Character and appearance - streetscene

7. The appeal site comprises a two storey mid terraced property on the southern side of Damers Road. The properties on this part of the road have shallow front gardens, which are set below the level of the adjacent pavement and main road. As I confirmed above, the raised platform is already in place and planning permission is sought retrospectively to retain it for use as a garden.
8. The raised platform is nearly rectangular in shape and its surface is level with the adjacent pavement. It extends over most of the front area to the host property but stops short of the main house entrance and shared arched path, to enable pedestrian access. The overall height of the platform is similar to the cill height of the ground floor windows on the host and on adjoining properties. At the time of my site visit there were two rows of plant pots on the raised platform.
9. Even though the raised platform is set behind a low slatted fence, it is still visible from public vantage points and contrasts markedly with the original well landscaped gardens on adjoining properties that fall away from the road towards the frontages of the properties in question. The raised platform results in a hard and incongruous appearance to the frontage of the host property that is out of keeping with its neighbours. The plant pots do not mitigate for the harm that results and there is no meaningful landscaping and no proposed scheme before me for any new landscaping.
10. For the above reasons, I concur with the Council that the retention of the raised platform is harmful to the streetscene. It does not contribute positively to the maintenance or enhancement of local distinctiveness. As such, the proposal is contrary to policy ENV10 of the West Dorset, Weymouth and Portland Local Plan (October 2015) (LP), which also states that development should only be permitted where it provides sufficient hard and soft landscaping.
11. In relation to the 2023 Appeal, that proposal sought to use the raised platform for parking and I note that the concerns raised at the time related to highway safety and the impact on the living conditions of neighbours. The latter is a matter that I address further below. The previous Inspector's decision to reject the use of the raised platform for parking still leaves the issue of the impact of the platform itself on the streetscene, a matter that the Council raised in its reason for refusal. As I have found above, the raised platform is a dominant feature within the streetscene and fails to integrate with the remaining original well landscaped front gardens that are an attractive feature of the terrace.
12. Turning to the examples of raised platforms referred to by the Appellant at 111 and 119 Damer Road, I understand that there is no history, in either case, of any planning approvals being obtained for these works. The Appellant suggest

that they may have been constructed under permitted development, but there is no substantive evidence before me to support that statement. The works could equally have been undertaken without the benefit of planning permission. Even so, as I observed on site, both raised platforms are of a very poor quality of design and devoid of any landscaping. As such, their presence has already harmed the character and appearance of the streetscene. For these reasons, they do not provide any justification for retaining the raised platform on the appeal site and their existence does not, therefore, affect my findings on this issue.

13. Accordingly, I find that the retention of the raised platform conflicts with policy ENV10 of the LP and paragraph 135 of the Framework.

Living conditions – neighbours

14. In the 2023 Appeal the Inspector found that the height and position of the parking space would result in harm to the living conditions of neighbouring occupiers. As I confirmed above, the proposal before me is to now retain the raised platform for use as a garden. The raised platform is sited close to the ground floor windows of the host property and the windows of 99 and 103 Damers Road (No's 99 & 103), albeit existing boundary fencing and planting mitigates to a certain extent the effect on No.103.
15. As I observed on site, the scale and height of the raised platform is harmful to the outlook from these ground floor windows and has an overbearing impact on those occupiers living conditions. Furthermore, its intended use as a garden allows the occupiers of the host property to look directly down, within close proximity, into the windows of neighbouring properties, in particular No.99, where no such similar views are likely to have been previously possible. No mitigation has been put forward by the Appellant to address this harm and whilst I accept that there is currently two rows of plant pots on the platform the proposal before me is to use this area as a garden. The latter could involve the occupiers of the host property using it as a sitting out area and/or as a play area. Again, the Appellant has not put forward any proposal to restrict the use of this area and I am not convinced that, for example, a condition to control its use would be appropriate, reasonable or enforceable where the intended use is as a garden.
16. Accordingly, I find that the retention of the raised platform for use as a garden results in an overbearing impact on the outlook of and unacceptable level of overlooking of neighbouring occupiers, leading to significant harm to their living conditions contrary to policy ENV16 of the LP and paragraph 135 f) of the Framework. These policies seek to ensure, amongst other requirements, that new development secures a high standard of amenity (living conditions), for both existing and future users.

Conclusion

17. For the reasons given above and having taken all other matters raised into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR