
Appeal Decision

Site visit made on 3 February 2026

by **M Ollerenshaw BSc (Hons) MTPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th February 2026

Appeal Ref: APP/M4320/C/24/3354844

Land at 8 Hastings Road, Birkdale, Southport, PR8 2LS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr David Vidgeon against an enforcement notice issued by Sefton Metropolitan Borough Council.
 - The notice was issued on 24 October 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a balustrade to the perimeter of the roof of the flat roof single storey extension which adjoins the neighbouring property at 6 Hastings Road to create a balcony area in the approximate position shown outlined in red on the attached 'Balcony Plan'.
 - The requirements of the notice are to cease the use of the single storey extension which adjoins the neighbouring property at 6 Hastings Road as a balcony area and remove the balustrade from the perimeter of the roof (as shown from point A to B to C on the attached plan entitled "Balcony Plan").
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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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Decision

1. The appeal is dismissed, 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.

Background

2. Planning permission (ref. DC/2020/00757) was granted in July 2020 for extensions to the property. A condition attached to that permission prohibited the use of the flat roof of the single storey rear extension, adjacent to 6 Hastings Road, as a balcony area.
3. The enforcement notice concerns a balustrade and balcony above that part of the flat roof of the single storey extension which was not permitted to be so used. The unauthorised development has been the subject of earlier planning applications and appeals. Planning permission for proposed alterations to the balustrade and extension to the balcony was refused in January 2024, and a subsequent s78 appeal against that refusal was dismissed¹. A later application for the erection of a Juliet balcony and retention of the balustrade was also refused and an appeal against that refusal was dismissed on 4 April 2025 insofar as it related to the retention of the balustrade and allowed insofar as it related to the erection of a Juliet balcony². During my site visit I observed that the balustrade remains in situ, but the Juliet balcony has not yet been installed.

¹ Council ref. DC/2023/02023, Appeal ref. APP/P4320/D/24/3341511

² Council ref. DC/2024/01534, Appeal ref. APP/M4320/D/24/3356427

The ground (a) appeal and the deemed planning application

4. The appeal on ground (a) is that planning permission ought to be granted for what is alleged in the notice.
5. The main issue in this case is the effect of the development on the living conditions of the occupiers of the neighbouring dwelling, 6 Hastings Road, with particular regard to privacy.
6. The appeal property is a two storey detached house featuring a large single storey extension which extends across the rear elevation of the dwelling. Above the extension a balustrade has been installed to the perimeter of the flat roof which is subdivided by a further balustrade to create two separate balconies. The main balcony, which was permitted under application ref. DC/2020/00757, is centrally positioned and is accessed via doors to the rear elevation.
7. The balcony and balustrade the subject of the notice are situated to the northern side of the roof close to the shared boundary with No 6. The appeal building is set slightly further back than No 6 and the single storey rear extension projects significantly further back. The elevated position of the balcony and its proximity to the boundary with No 6 mean that it overlooks the neighbour's rear garden and habitable room windows. This results in an unacceptable loss of privacy to the neighbour. The balustrade is not of a sufficient height to mitigate the impact.
8. It does not currently appear to be possible to access the balcony from the small bedroom as the windows/doors to the rear of that room are not fully openable. It would, however, be possible to obtain access to it over the dividing balustrade from the main balcony or, once installed, by climbing over the Juliet balcony. It is put to me that the Juliet balcony will prevent access to the balcony from the bedroom, except in an emergency, but that cannot be assured. I acknowledge that the appellant does not intend to use this part of the roof as a balcony, but future occupiers may wish to do so, particularly as the balustrade creates a usable balcony area, and the Juliet balcony could be removed at a later date.
9. No technical justification has been provided to demonstrate that the balustrade is required for safety reasons including for Building Regulations purposes. Therefore, based on the evidence before me, there is insufficient justification for its retention.
10. I conclude that the development is harmful to the living conditions of the occupiers of No 6. Accordingly, it conflicts with Policy HC4 of A Local Plan for Sefton (2017) which requires that extensions and alterations are designed so that there will be no significant reduction in the living conditions of neighbouring residents, including loss of privacy.
11. The appeal on ground (a) therefore fails and the deemed application for planning permission is refused.

The ground (f) appeal

12. An appeal on ground (f) is that the steps required by the notice to be taken, or the activities required to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

13. When an appeal is made on ground (f), it is necessary to understand the purpose of the notice. The requirements of the notice are to cease the use of this part of the roof of the single storey extension as a balcony and remove the balustrade. Therefore, the purpose of the notice, having regard to s173(4) of the Act, is to remedy the breach of planning control.
14. The appellant argues that the Council did not allow sufficient time to appeal against the refusal of planning permission, noting that the enforcement notice was issued only three days after the refusal. This is a procedural matter outside the scope of the ground (f) appeal, and it does not address whether the steps required by the notice exceed what is necessary to remedy the breach.
15. Installing the Juliet balcony while retaining the balustrade including the glass, as suggested by the appellant, would not remedy the breach of planning control, as part of the development would remain and the roof area would still be capable of being used as a balcony, even if that is not the appellant's intention.
16. No lesser steps are apparent that would remedy the breach of planning control and the resulting harm. I therefore conclude that the requirements of the notice do not exceed what is reasonably required in order to remedy the breach.
17. The appeal on ground (f) fails.

Conclusion

18. For the reasons given above, I conclude that the appeal does not succeed. The enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

M Ollerenshaw

INSPECTOR