



---

## Appeal Decisions

Site visit made on 1 December 2020

by **L Perkins BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 January 2021

---

### **Appeal A Ref: APP/L5810/W/20/3252429** **37A Chilton Road, Richmond TW9 4JD**

- 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 & Mrs Foo against the decision of the Council of the London Borough of Richmond-upon-Thames.
  - The application Ref 20/0408/FUL, dated 11 February 2020, was refused by notice dated 7 April 2020.
  - The development proposed is described as: Alterations to external staircase.
- 

### **Appeal B Ref: APP/L5810/C/20/3252783**

### **Appeal C Ref: APP/L5810/C/20/3253681** **37A Chilton Road, Richmond TW9 4JD**

- 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 appeals are made by Mr Foo (Appeal B) and Mrs Foo (Appeal C) against an enforcement notice issued by the Council of the London Borough of Richmond-upon-Thames.
  - The enforcement notice was issued on 17 April 2020.
  - The breach of planning control as alleged in the notice is: Without planning permission and within the past four years the unauthorised erection of an external staircase and first-floor raised platform to the rear of the Property.
  - The requirements of the notice are:
    - 5(a) Remove the unauthorised external staircase and first-floor platform area; and
    - 5(b) Re-instate a staircase of a similar design and materials as the staircase that previously existed; and
    - 5(c) Make good any damage caused by compliance with step 5(a) and 5(b) above.
  - The period for compliance with the requirements is 3 months.
  - Appeals B and C are proceeding on the grounds set out in section 174(2)(a) and (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.
- 

## Decisions

1. Appeals A, B and C are dismissed, the enforcement notice is upheld and planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

## Preliminary Matter

2. A new external staircase and raised platform has been constructed to the rear of the appeal property. In response to communications from the Council, the

appellant submitted a planning application proposing to amend what has been constructed. That planning application has been refused, resulting in Appeal A.

3. The above refusal of planning permission has been followed by the service of an enforcement notice. The appellant has appealed the enforcement notice, resulting in Appeals B and C. As such, the development which is the subject of Appeal A is different to the development which is the subject of Appeals B and C.

## **Reasons**

### *The section 78 appeal and the section 174 ground (a) appeals*

4. For each of the above appeals the main issues are the effect of the development on:
  - the character and appearance of the area; and
  - the living conditions of neighbouring occupiers, with particular regard to overlooking of the rear gardens of 35 and 37 Chilton Road and 43 Darell Road.

### *Character and Appearance*

5. The area is characterised by two storey Victorian terraced houses, many of which have been converted into flats. The appeal site is a flat occupying the upper floors of one such house. Several of the buildings in the same terrace have an external staircase from the first floor down to a rear garden.
6. These staircases are typically constructed of black metal with black metal railings, including around their modest external landing areas. As such they have a traditional character and appearance. They are clearly seen from Darell Road and Dancer Road at either end of the terrace.
7. The external staircase and first-floor raised platform on the appeal building, which is the subject of Appeal B and Appeal C, has been constructed with a shiny stainless steel handrail and uprights with glazed panels. As such, it contrasts starkly with the typical traditional character and appearance of the area. In this respect it does not comply with the Council's Supplementary Planning Document (SPD) 'House Extensions and External Alterations' 2015, which states that traditionally exterior ironwork on railings is painted black.
8. In addition, the raised platform is considerably larger than the landings seen on the neighbouring properties and consequently it and its staircase project further into the rear garden of the property. The overall effect is that the appeal development in Appeal B and C appears out of scale and so is an insubordinate, incongruous and unsympathetic addition to the appeal property. The above effects are clearly appreciated from neighbouring properties and Darell Road.
9. By the development in Appeal A, the appellant proposes to change the existing structure by replacing the glazed panels with black painted steel balustrade panels and painting the retained grey steel elements black. The changes would reduce the effect of the materials on the character and appearance of the area to some extent. But the changes would not reduce the effect of the scale of the structure, described above.

10. Whilst the appeal site is not within a conservation area, this makes no difference to my assessment in respect of the policies identified in the Council's decisions. I conclude the appeal development, as existing or as proposed, harms the character and appearance of the area. This does not comply with Policy LP1 of the Local Plan 2018, Policy 7.4 of the London Plan (as amended) 2016 or the SPD in this regard.

#### *Living Conditions*

11. The first-floor raised platform which has been constructed, and the upper end of the external staircase which has been constructed, provide views over neighbouring gardens, particularly 35 and 37 Chilton Road and 43 Darell Road.
12. By reason of its function, views achieved from the staircase are fleeting, as they would have been for the previous staircase. However, the raised platform is significantly larger and deeper than the small landing which existed previously and those which are seen on neighbouring properties in the terrace.
13. As a consequence of the combined depth and width of the raised platform, it is large enough to accommodate furniture, including a table and chairs. The substantial barbecue which it accommodated at the time of my site visit is evidence of this.
14. In my judgement, the size of the raised platform means it results in significant overlooking of the neighbouring gardens noted above and this effect is exacerbated by its ability to accommodate furniture for sitting out. So the effect is not comparable to the previous landing or the smaller, narrower external landings seen on neighbouring properties in the terrace.
15. I realise external landing areas outside neighbouring properties may be used for sitting out. But from the information provided and my own observations at my site visit, this practise is generally a casual, solitary activity, facilitated by folding/temporary furniture (or no furniture at all) during warm sunny weather. So I do not find this comparable to that which may be facilitated by the appeal development, which includes a considerably larger platform.
16. The appellant considers occupants of the appeal property can see as much of the garden of No 43 from inside the appeal property as they can when standing or sitting outside. But having visited the appeal site and having considered the photographs provided by the appellant, I do not accept this is the case. Moreover, I do not consider the experience of being overlooked in the garden of No 43 from inside the appeal property is comparable to the effect when overlooked from the raised platform.
17. The appellant proposes to install a fixed planter to reduce the platform area and prevent it being used for sitting out. But this would not reduce the effect of the scale of the structure on the character and appearance of the area, described above. The appellant considers the planter would soften any perception regarding the depth of this part of the structure. But I am not satisfied this is the case. Moreover, it would be an unreasonable burden to require planting to be maintained indefinitely to conceal a permanent structure. So I am not satisfied this approach suggested by the appellant would comply with all the tests for planning conditions set out in paragraph 55 of the National Planning Policy Framework.

18. The changes proposed to what has been constructed, ie by the development proposed in Appeal A, make no difference to the effects described above in respect of this main issue.
19. I conclude each of the appeal developments harm the living conditions of neighbouring occupiers, with particular regard to overlooking of the rear gardens of Nos 35, 37 and 43. This does not comply with Policy LP8 of the local Plan 2018 or the SPD in this regard.

#### *Other Matters*

20. In light of the harm identified above, I am not satisfied representations received from neighbours declaring their support make the existing or proposed appeal developments acceptable.
21. The appellant states there are other households who have adopted the same modern design for their stairs but details of these have not been provided. At my site visit my attention was drawn to an example of another structure, at 44 Chilton Road. But I have not been provided with details of how this came to exist and it is not seen within the context of the appeal development so I give this example limited weight in these decisions.
22. My attention has also been drawn to another structure, at 41A Chilton Road. But from the information provided, this was not constructed in accordance with the original planning permission that proposed metal railings painted black. Consequently, it appears out of character with its traditional surroundings and so in my judgement it is not an example which should be adopted on other properties so I give it limited weight.
23. The appellant states it is not clear how a staircase/fire escape made of wood (which is what the enforcement notice indicates must be reinstated) is appropriate. But given what clearly existed previously, what the notice requires is entirely appropriate given the provisions of section 173(4)(a) of the 1990 Act referred to above, in respect of restoring the land to its condition before the breach took place.

#### *Conclusion on the section 78 appeal and the section 174 ground (a) appeals*

24. I conclude the section 78 appeal and the appeals on ground (a) fail.

#### *The ground (g) appeals*

25. The appellant refers to the COVID-19 pandemic and a backlog for the construction industry as a result. They seek 12 months to comply with the notice.
26. But the requirements of the notice are relatively straightforward and there is no evidence they could not be carried out within the period specified in the notice, noting that builders may continue to operate in a lockdown. I am satisfied 3 months is what should reasonably be allowed to comply with the requirements of the notice.
27. Should this prove not to be the case, it is entirely a matter within the discretion of the Council to draw on its powers under section 173A(1)(b) of the 1990 Act, without prejudicing its right to take further action. I conclude the appeal on ground (g) fails.

## **Conclusions**

28. For the reasons given above I conclude that Appeals A, B and C are dismissed. I uphold the enforcement notice and refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the 1990 Act as amended

*L Perkins*

INSPECTOR