
Appeal Decision

Site visit made on 16 January 2020

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2020

Appeal Ref: APP/Z5060/C/19/3227707

Land and premises at 19 Felton Road, Barking IG11 7XZ

- 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 appeal is made by Mr Krasimir Stefanov against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
 - The enforcement notice was issued on 3 April 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a rear extension in the rear garden.
 - The requirements of the notice are:
 - Demolish the unauthorised single storey rear extension or reduce the dimensions of the extension to those within Permitted Development tolerances.
 - Remove all waste resulting from the demolition or reduction of dimensions.
 - The period for compliance with the requirements is 3 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)[a] of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground [a] and the prescribed fees have been paid within the specified period, an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected by the deletion of the words

“Demolish the unauthorised single storey rear extension or reduce the dimensions of the extension to those within Permitted Development tolerances”

and substitution of the words

“Demolish the unauthorised single storey rear extension or reduce the dimensions of the extension to the limits set out in Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015”

in Section 5 of the notice.

2. Subject to the correction, the appeal is dismissed, and the enforcement notice is upheld.

Procedural Matters

3. Although the appellant makes a comment which seems to relate to ground (c), he did not provide any evidence in that regard and subsequently confirmed that the appeal was to proceed under ground (a) only.
4. The requirements of the notice are either the demolition of the extension or a reduction in its dimensions to those within permitted development tolerances. It is a well-established principle that it must be clear from the notice what the recipient needs to do to remedy the unauthorised development and that requirements should not be vague or uncertain. In this case the phrase 'within permitted development tolerances' does not provide the necessary clarity. The notice needs to be corrected to refer to the legislation and the relevant sections of it so that the appellant knows where to look for information regarding the alternative to demolition of the extension.
5. Notwithstanding that this issue has not been raised by either party, I am under an obligation to ensure that the notice, if it is upheld, is correct and enforceable. To this end I will correct the notice by deleting the first bullet point requirement and substituting the following:
 - Demolish the unauthorised single storey rear extension or reduce the dimensions of the extension to the limits set out in Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Correcting the requirements in this way can be done without prejudice to either party.

Ground (a) and the deemed planning application

6. Ground (a) is that planning permission should be granted for the matters stated in the notice.

Main Issues

7. The main issues are the effect of the development on:
 - the character and appearance of the appeal site and the surrounding area.
 - the living conditions of the occupiers of neighbouring dwellings, with particular regard to daylight, outlook and sunlight.

Reasons

Character and appearance

8. Felton Road and the surrounding streets serve an established residential area comprising semi-detached and terraced two storey buildings of similar design and materials facing the street which give the area a well-ordered appearance and open character. As a result of the way in which amenity space has been allocated to the houses and communal garden space, there is a wide variety of shapes and size of rear gardens as shown on the aerial view of the site. Several of the houses facing Felton Road in the vicinity of the appeal site have been extended and there are outbuildings within the gardens. As a result, the rear elevations of the houses in particular do not reflect the regimented character of the street scene and there is a greater sense of enclosure.

9. 19 Felton Road (No. 19) is a typical example of the semi-detached pairs of houses in the area, and along with No. 17 to which it is attached it has a rear garden of very modest proportions. In combination a shed which extends across the full width of the garden and the rear extension to the house, which is the subject of the appeal, cover the majority of the space between the original house and the boundary of properties facing Sutton Road. However, this arrangement is not without precedent in the vicinity of No. 19.
10. There are ground floor and first floor extensions to the rear of No. 17. Whilst these are prominent in views from the adjacent gardens their impact is tempered by the siting of No. 17 which is the last in a row of houses. By contrast, the extension to No. 21, although only single storey has a very dominant effect in combination with the extension to No. 19 because they affect the whole row of buildings.
11. The Council has attached a copy of a decision notice for retention of single storey rear extensions at 19 and 21 Felton Road (Council Ref: 19/007658/FUL). Planning permission was refused. Although there is no further information regarding this development, this decision undermines the reliance which I can place on the large extension to No. 21 as part of the established character and appearance of the area.
12. Notwithstanding the presence of extensions and sheds within the rear gardens of houses in the vicinity of the site, the degree of coverage within the space to the rear of No. 19, as shown on the aerial photograph, is significantly greater than in those other cases, with the exception of No. 21. This anomaly, in combination with the dominant impact of the extension, is harmful to the character and appearance of the site and the surrounding area.
13. The appellant notes that there is a strong commitment by government to help people to extend their homes without the need for planning permission. Whilst this is the case, the Council determined that planning permission was needed for the extension which means that matters such as impact on character and appearance fall to be considered in this case.
14. I conclude that the rear extension in the rear garden has a harmful impact on the character and appearance of the site and the surrounding area. The development is contrary to Policies BP8 and BP11 of the Local Development Framework Planning for the future of Barking and Dagenham Borough Wide Development Policies Development Plan Document (2011) (the Development Policies Document) which require that all development, including extensions, have regard to the local character of the area and its protection or enhancement. For similar reasons the development does not accord with the Local Development Framework Residential Extensions and Alterations Supplementary Planning Document (2012) (the SPD) which amongst other things highlights the need for extensions to reflect the positive elements of the character of the area.

Living conditions

15. The extension abuts the single storey extension to No. 17 and does not extend beyond it. There is a boundary screen between the two properties. In combination this arrangement and the single storey height of the structure mitigate any significant impacts in terms of outlook, daylight and sunlight with associated overshadowing.

16. The effect on the living conditions of the occupiers of No. 21 are more complex because it appears from the evidence that the extension to No. 21 may not benefit from planning permission. At present the size and height of the extensions to Nos. 19 and 21 which sit side by side are very similar and do not result in harmful effects in terms of outlook, daylight or sunlight. Even so, if the extension to No. 21 had not been carried out or a smaller extension built, the gap between the shared boundary and the side wall of the extension to No. 19 would be sufficient to reduce any harmful effects on the residential amenities enjoyed by the occupiers of No. 21 to an acceptable level.
17. I have received representations from the occupier of No. 17 who raises concerns about the effect of the internal layout of the extension and the installation of a boiler and plumbing on the enjoyment of his property. However, these works do not amount to development. Consequently, they do not fall to be considered as part of this appeal.
18. I conclude that the rear extension does not have a harmful effect on the living conditions of the occupiers of neighbouring dwellings, with particular regard to daylight, outlook and sunlight. The development accords with Policies BP8 and BP11 of the Development Policies Document which require that all development, including extensions, should not lead to significant loss of outlook and overshadowing and maintain residential amenity. For similar reasons the development accords with the SPD which amongst other things highlights the need to consider the impact which an extension has on the quality of life enjoyed by people living nearby.

Conclusion on ground (a) and the deemed planning application

19. Notwithstanding the lack of harm which I have found in regard to the living conditions of the occupiers of neighbouring dwellings, the harm which I have identified to the character and appearance of the appeal site and the surrounding area is sufficient to warrant refusing planning permission.
20. For the reasons set out the appeal fails under ground (a) and the deemed planning application is refused.

Sarah Dyer

Inspector