
Appeal Decision

Site visit made on 18 February 2021

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 April 2021.

Appeal Ref: APP/Z5060/D/20/3262995

104 Lyndhurst Gardens, Barking IG11 9XZ

- 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 Iftikar Zikria against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 20/01724/HSE, dated 26 August 2020, was refused by notice dated 29 October 2020.
 - The development is a proposed first floor rear extension, outbuilding, veranda, and all associated works.
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Decisions

1. The appeal is allowed and planning permission is granted for a proposed first floor rear extension at 104 Lyndhurst Gardens, Barking IG11 9XZ in accordance with the terms of the application, Ref: 20/01724/HSE, dated 26 August 2020, and the plans submitted with it (site location plan, 44776-01-103).

Preliminary Matters

2. The appellant has confirmed that he wishes to withdraw the outbuilding and veranda from the appeal. Consequently, it remains for me to consider the first floor rear extension. The Council has also clarified its position and explained the extent of its objections in this respect. I have amended the description of the appeal development accordingly.
3. At my site visit, I saw that the first floor extension has been substantially completed and I note that the application has been submitted retrospectively. I have dealt with the appeal on that basis.
4. The Local Authority's decision notice refers to several policies within the Draft Local Plan (Regulation 19 Consultation Version, October 2020). However, as the Draft Local Plan may be subject to further change, I only attach limited weight to these policies. Policies D1, D4 and D8 of the London Plan 2021 (LP) are unchanged from the Intend to Publish version, and have replaced the policies in the 2016 London Plan, both of which are referred to in the Council's decision.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupiers of 106 Lyndhurst Gardens with regard to light and outlook.

Reasons

6. The Council is concerned that the first floor extension would extend beyond a 45-degree angle as taken from the corner of the adjoining property at 106 Lyndhurst Gardens, and therefore would be contrary to the advice within the London Borough of Barking and Dagenham Residential Extensions and Alterations Supplementary Planning Document February 2012 (SPD).
7. At my site visit I was able to access the flat roof of the first floor extension and closely examine the proximate window to the rear elevation of no. 106. It is obscure glazed and appears to serve a bathroom. Moreover, given the relationship between the dwellings, the appeal element is to the northwest of the window in no. 106.
8. Having regard to these factors, whilst there would be a technical breach of the SPD guidance, I consider that there would be no demonstrable harm as a result of the scheme. The appeal proposal would not impinge upon daylight and sunlight to the first floor window of the adjacent dwelling. Moreover, given its opaque glazing I am of the view that there would be no adverse detriment to outlook from the opening that would warrant dismissal of the appeal.
9. I observed the internal first floor rooms at my site visit, and consider that the size and arrangement of the accommodation is acceptable, meeting the needs of future occupants.
10. I therefore conclude that the proposal would not result in harm to the living conditions of the occupiers of 106 Lyndhurst Gardens with regard to light and outlook. Thus, despite a technical breach of the guidance set out in the SPD, the proposal would still accord with the overall amenity protection aims of policy BP8 of the of the London Borough of Barking and Dagenham Borough Wide Development Policies Development Plan Document March 2011, and policy D4 of The London Plan 2021, which require new development to deliver good design and prevent significant loss of light and outlook to surrounding properties. The proposal is also consistent with the advice in the Framework which seeks to ensure safe and healthy living conditions.

Conditions

11. I have considered the imposition of conditions in light of advice in Planning Policy Guidance and the Framework. The development is substantially complete and therefore the standard time limit and plans condition are no longer necessary. I am satisfied that no conditions are required.

Conclusion

12. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

C Hall

INSPECTOR