



Appeal Decisions

Site visit made on 11 May 2021

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 June 2021

Appeal A: APP/Z5060/D/20/3255369

Land and premises at 179 Cavendish Gardens, Barking IG11 9DZ

- 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 Zafar Iqbal against an enforcement notice issued by the Council of the London Borough of Barking and Dagenham.
 - The enforcement notice was issued on 10 June 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a rear extension.
 - The requirements of the notice are:
 - Remove the unauthorised rear extension in its entirety.
 - Remove all subsequent waste material from the premises.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/Z5060/D/20/3252337

179 Cavendish Gardens, Barking IG11 9DZ

- 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 Zafar Iqbal against the decision by the Council of the London Borough of Barking and Dagenham.
 - The application Ref 20/00018/FUL, dated 6 January 2020, was refused by notice dated 18 March 2020.
 - The development proposed is described as 'retention of a 6m single storey rear extension'.
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Decisions

1. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a rear extension on land at 179 Cavendish Gardens, Barking IG11 9DZ, referred to in the notice.
2. Appeal B is allowed and planning permission is granted for a 6m single storey rear extension at 179 Cavendish Gardens, Barking IG11 9DZ in accordance with the terms of the application, Ref 20/00018/FUL, dated 6 January 2020, and the plans submitted with it.

Preliminary Matters

3. In respect of Appeal A, I understand that the appellant changed his name after submitting his appeal and consequently, the name given in the banner heading above is taken from the details sent subsequent to the appeal being made.

4. I have omitted the words 'retention of a' from my formal decision in respect of Appeal B since these do not describe an act of development.
5. Ground (a) is that planning permission should be granted for the matters stated in the notice and since the considerations in Appeal B are the same as for Appeal A I have considered the appeals together.

Appeal A on ground (a) the deemed planning application and Appeal B

Main Issues

6. The main issues are the effect of the extension on (i) the living conditions of the occupants of 177 Cavendish Gardens with particular regard to outlook and daylight/sunlight matters and (ii) the character and appearance of the area.

Reasons

Living conditions

7. The parties dispute the dimensions of the extension however, I observed that it is broadly the same depth and height as the neighbouring extension at 181 Cavendish Gardens for which, according to the appellant and not disputed by the Council, prior approval was granted. Accordingly, in the absence of substantive contrary evidence, there is no reason to believe that the extension is greater than 6m in depth or 3m in height.
8. The appeal property is a mid-terrace two storey house and the rear of the houses face broadly north west. Therefore, having regard to the orientation of the houses and the location of no.177 broadly west of the appeal site, I find that the extension will not materially reduce the amount of daylight no.177 receives and there will be no harmful effect as a result of overshadowing of either the house or garden.
9. The Council's Residential Extensions and Alterations Supplementary Planning Document Adopted February 2012 (SPD), in respect of single storey extensions states that *In exceptional circumstances, where an extension has a greater depth, that part of the extension which exceeds 3.65 metres must be within a 45 degree angle as measured from the corner of adjacent dwellings*. There is no dispute that the extension does not comply with this criterion.
10. However, whilst there is a door in the rear of no.177 relatively close to the extension, the ground floor window is set away from the boundary with the appeal site. Consequently, whilst the extension is visible from that window, I conclude that it will not have an overbearing impact on the outlook from within the house given the separation distance. Furthermore, due to the length and width of the garden at no.177 which offers an otherwise largely open aspect, I conclude that it will not have a materially harmful overbearing impact on the outlook from within the garden.
11. For these reasons, the extension accords with the overall amenity protection aims of Policies BP8 and BP11 of the Borough Wide Development Policies Development Plan Document (March 2011) (the DPD). Whilst there may be a breach of the SPD in respect of the 45-degree rule, the extension accords with the aims to safeguard the living conditions of neighbouring occupiers in respect of daylight and outlook matters.

Character and appearance

12. The appeal property is a modest mid-terrace house constructed of red brick and render, located in a residential area comprising houses which viewed from the front have a broadly uniform appearance.
13. The extension has a flat roof which does not reflect the roof form of the existing house nevertheless, it has a straightforward appearance, with fenestration details which reflect the appearance of those in the existing and surrounding houses. Although the depth of the extension at six metres is substantial, as a mid-terrace property this depth would only be appreciable to those occupiers of the nearest neighbouring houses. Furthermore, close views of the extension are limited to the nearest neighbouring houses and gardens and a number of flats to the rear.
14. At my visit I observed that the rear elevations of several houses in the immediate locality feature modern additions of varying design, including the large flat roof extension to the neighbouring no.181. When viewed in this context and considering the extension is only visible in limited wider views, I consider that the extension causes no material harm to the character and appearance of the area.
15. Therefore, I conclude that the extension has an acceptable effect upon the character and appearance of the area and there is no conflict with the overall design aims of Policies BP8 and BP11 of the DPD.

Other Matters

16. The Council in their appeal statement referred to policies from their Draft Local Plan, which is in the final stages of consultation however, copies of the policies were not provided. In any event, since there is yet no detail about the extent of any objections, I have determined the appeal on the basis of the adopted development plan.

Conclusion

17. For the reasons given above, I conclude that Appeal A succeeds and planning permission will be granted for the development as described in the notice. The appeal on grounds (f) and (g) do not therefore fall to be considered. Appeal B also succeeds and as the extension is complete the standard time limit condition and plans condition are not necessary.

Felicity Thompson

INSPECTOR