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## Appeal Decision

Site visit made on 8<sup>th</sup> October 2021

**by Megan Thomas Q.C. Barrister-at-Law**

**an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities**

**Decision date: 01 November 2021.**

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**Appeal Ref: APP/Z5060/D/21/3271237**

**119 Chelmer Crescent, Barking IG11 0PY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA, Paragraph AA.2(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Ilja Abramenko against the decision of the London Borough of Barking and Dagenham.
  - The application ref:21/00184/PRICAS, dated 2 February 2021, was refused by notice dated 26 February 2021.
  - The development proposed is a "2<sup>nd</sup> floor addition. The proposed additional storey would be 2.35m in height. Proposed maximum height of the dwellinghouse measured from the natural ground level would be 10.49m."
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), under Article 3(1) and Schedule 2, Part 1, Class AA, Paragraph AA.2(3)(a) require the local planning authority to assess the proposed development on the basis of, amongst other things, impact on the amenity of any adjoining premises including overlooking, privacy and loss of light, and also on the external appearance of the house, taking into account any representations received. My determination of this appeal has been made on the same basis.

### Main Issues

3. The main issues in the appeal are the effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to overlooking, privacy and the loss of light and the effect on the external appearance of the dwellinghouse, including the design and architectural features of the principal elevation.

## Reasons

### *Amenity of Adjoining Premises*

4. The appeal site is an end-of-terrace two storey dwelling with a small forecourt for some off-street parking. There are 3 other dwellings in the terrace to the west of the appeal site; nos 117, 115 and 113. All four are fairly uniform in their basic design and appearance but the appeal property has the addition of a two storey side extension with a hipped roof. No.117 has a single storey rear extension. No.121 Chelmer Crescent is situated to the east of the appeal site and is part of a separate terrace of dwellings. It has a two-storey side extension on its west side. All properties have rear north-facing gardens.
5. On the south side of Chelmer Crescent opposite the terrace in which the appeal site is located, there are further terraced dwellings (nos 30 to 42(even)). Heading west, Chelmer Crescent curves southwards towards Roxwell Road and there are blocks of purpose-built flats of up to 4 storeys around the curve.
6. The proposed development includes the addition of a storey on the main part of no.119. It would have a hipped roof at the eastern end. The western end would be a vertical wall roughly triangular in shape. The front and rear elevations on the additional storey would each have two new windows serving a bedroom, except for the rear-facing east window which would serve a bathroom. There would be no windows in the flank elevation. The existing side extension has a window at first floor level at the front, but not at first floor level at the rear. The proposed additional storey would be about 2.35m in height and the new roof an additional 2.55m or so. The maximum height of the dwellinghouse measured from natural ground level would be about 10.49m.
7. The new windows on the front of the new storey would overlook the Crescent and would overlook the front windows of dwellings directly opposite. I consider this potential overlooking to be more intrusive than the overlooking that is currently possible from the first floor front windows of the appeal property. I consider that the occupants of no. 38 Chelmer Crescent would suffer an unacceptable loss of privacy when in their house. At the rear of the appeal property the new bedroom window would allow oblique overlooking of the garden of no.117 Chelmer Crescent. I consider that this would be an unacceptable loss of privacy for the occupants of that property when in their garden, notwithstanding that some overlooking can be obtained from the existing rear first floor bedroom window at the appeal site. I do not consider there would be unacceptable overlooking of the garden of no.121 Chelmer Crescent owing to the separation distance, an outbuilding in that garden and the fact that the eastern-most new window of the proposal would serve a bathroom.
8. In respect of light, I am concerned that the proposed new development would result in a loss of light to the garden of no.117. It is north-facing small garden and in my view the new development would reduce natural light reaching it, and any sunlight that it currently enjoys would also be reduced. This level of loss of light I consider would be unacceptable. Loss of light to the rear garden of no.121 is also of concern given that it is also north-facing and modestly-sized. I consider the impact would be unacceptable.
9. On this first issue, I conclude that the impact on amenity to the occupants of no.117 Chelmer Crescent by reason of loss of light and loss of privacy would be

unacceptable, and the impact on the occupants of no.38 Chelmer Crescent and of no.121 Chelmer Crescent would result in undue loss of light.

*External Appearance*

10. The National Planning Policy Framework paragraph 126 advises that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. The Framework goes on to say that planning decisions should aim to ensure that developments add to the overall quality of an area not just for the short term but over the lifetime of the development. Paragraph 134 advises that development that is not well designed should be refused.
11. Considering the terrace of houses as a whole (113 -119), the proposed additional storey and new roof would seriously detract from its uniformity and visual harmony. The new roof and its vertical end would appear incongruous with an abrupt lifting of the eaves line and ridge line and the loss of one of the 4 chimneys. In particular, viewed from the west the eye would be drawn to the vertical end of the new roof and its plainly incompatible design. Whilst it is correct that Part 1 Class AA permitted development rights apply in principle to terraced properties, and, mindful that I must view the proposal through the prism of the purpose of the legislation, nevertheless, in this particular case the proposed development would be seriously harmful to the external appearance of the host dwelling and the terrace and the wider streetscene.
12. Whilst there is a side extension, neither the side elevation of the side extension nor what can be seen of the side elevation of the main dwelling face the highway, and so I agree with the Appellant that the element referred to in Part 1 Class AA A.2.(3)(a)(ii)(bb) is not present at the appeal site.
13. On this second issue I conclude that the proposal would unduly harm the external appearance of the host dwelling, the terrace and the wider area and would be contrary to advice in the Framework. In doing so I have borne in mind the architectural design and the features of the principal elevation.

**Conclusion**

14. For the reasons given above, I conclude that the appeal should be dismissed.

*Megan Thomas Q.C.*

INSPECTOR