
Appeal Decision

Site visit made on 30 November 2021

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2021

Appeal Ref: APP/Z5060/C/21/3266828
52 Lincoln Avenue, Romford RM7 0SR

- 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 Quais Salihi against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
 - The enforcement notice was issued on 15 December 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 extension in its entirety.
 - Remove all subsequent waste material from the premises.
 - The period for compliance with the requirements is 3 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. 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.
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Decision

1. It is directed that the enforcement notice is:
 - corrected by deleting the word “unauthorised” within section 3 of the enforcement notice (the matters which appear to constitute the breach of planning control)”.
2. Subject to the correction, the appeal 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 at 52 Lincoln Avenue, Romford RM7 0SR referred to in the notice.

Procedural Matters

3. The allegation in the Enforcement Notice referring to the word “unauthorised” is unnecessary given that the allegation already states “without planning permission”. However, the appellant appears to have understood the allegation and, in my opinion, the misdescription does not render the notice unclear. It is necessary however to correct the allegation to remove unnecessary word but retaining the effect of what the Council is trying to achieve. This would not cause injustice and I can therefore use my powers under the provisions of s176(1)(a) to achieve this correction.

4. Further revisions have been made to the National Planning Policy Framework during the course of my consideration of the appeal and a revised version was published in July 2021 (the Framework). I have invited the main parties to comment on the Framework and have taken account of any responses from them in my determination of the appeal.
5. Furthermore, during the course of this appeal, the London Plan, 2016, and policies contained within it, has been replaced with the London Plan 2021 (London Plan), which was adopted on 2 March 2021. This must now be given full weight in the decision making process. Both parties have been given the opportunity to comment on the new London Plan, and so have not been prejudiced. I have therefore not assessed the development against the policies of the superseded London Plan 2016

Appeal on ground (a), the deemed planning application (DPA)

Main Issues

6. The main issues are the effect of the development upon:
 - The character and appearance of the host building and area; and
 - The living conditions for the neighbouring occupiers of Nos 50 and 54 Lincoln Avenue, with particular regard to outlook, overshadowing and daylight.

Reasons

Character and appearance

7. The appeal property is a two storey semi-detached property. Properties in the street generally benefit from relatively large rear gardens. The design of the single storey brick built rear extension, together with its modest flat roof design and set back away from the boundary with No 54 Lincoln Avenue ensures that the development does not appear unduly dominant. Furthermore, the extension does not occupy a disproportionate area of the large rear garden. In these respects, the development maintains the character and appearance of the building.
8. I also observed that there were similar sized ground floor extensions in the area, and therefore the development is in keeping with the area. Whilst I appreciate some of these would have built under permitted development legislation and therefore their planning merits would not have been assessed against the Council's development plan and SPD, these developments nevertheless form part of the existing character and appearance of the area. Furthermore, owing to its position to the rear of the property, ensures that it is not harmful to the street scene.
9. I therefore conclude that the development preserves the character and appearance of the host building and area. It would therefore be in accordance with policy BP11 of the London Borough of Barking Borough Wide Development Policies Development Plan Document, 2011 (DPD), which amongst other things states that the design of buildings and layout of new development should Protect or enhance the character and amenity of the area.

Living conditions for the occupiers at Nos 50 and 54 Lincoln Avenue – outlook, overshadowing and daylight

10. For single storey extension for semi-detached properties, the Council's Residential Extensions and Alterations Supplementary Planning Document, 2012 (SPD) advises that "*the depth of the extension should not normally exceed 3.65 metres as measured from the original rear wall of the house to ensure that there is no material loss of daylight and outlook to neighbouring properties*". Although the extension exceeds 3.65m, the flat roof design of the extension ensures that the overall height of the development is not excessive for this semi-detached property. Furthermore, with regard to No 50, there is already existing well established vegetation within this neighbouring garden close to the boundary with No 52, and the height of the extension remains lower than the existing established vegetation. With regard to No 54, the stepped design of the extension, together with the gap which has been maintained between the side passageway of Nos 52 and 54 Lincoln Avenue ensures that the extension is sited away from the boundary with No 54.
11. I therefore conclude that the development does not have a harmful effect in relation to outlook, overshadowing and daylight for the occupiers of Nos 50 and 54 Lincoln Avenue. In this respect, the development complies with Policy BP8 of the DPD, which amongst other things states that all developments (including alterations, extensions, conversions, and infill developments) are expected to.... not lead to significant overlooking (loss of privacy and immediate outlook) or overshadowing (loss of daylight and sunlight).

Other Matters

12. Comments made by third parties have been taken into account but do not alter the conclusions reached in this decision. A concern has been raised that given that the extension may be used as a main access route for the house. However, given that the extension is located to the rear of the site, there is no evidence to suggest that this would be the case. I also observed during my site visit that the porch at the front of the site, provides the most obvious route into and out of the property.
13. No conditions have been suggested by the Council and as the development appears to be completed, there is no need for any.

Conclusion

14. For the reasons given above I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development described in the enforcement notice as corrected. The appeal on grounds (f) and (g) do not therefore fall to be considered.

R Satheesan

INSPECTOR