
Appeal Decision

Site visit made on 5 January 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2022

Appeal Ref: APP/Z5060/W/21/3279895

87 Hurstbourne Gardens, Barking, IG11 9UU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr S Haroon against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 21/00548/VAR, dated 24 March 2021, was refused by notice dated 13 May 2021.
 - The application sought planning permission for demolition of existing garage and erection of two storey 2 bedroom end of terrace house without complying with a condition attached to planning permission Ref 19/01720/FUL, dated 20 February 2020.
 - The condition in dispute is No 2 which states that: "The development hereby permitted shall be carried out in accordance with the following approved plans: 01; 05; 06; 07; 08; 09."
 - The reason given for the condition is: "For the avoidance of doubt and in the interests of proper planning".
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage and erection of two storey 2 bedroom end of terrace house at 87 Hurstbourne Gardens, Barking, IG11 9UU in accordance with application Ref 21/00548/VAR, dated 24 March 2021, subject to the conditions in the attached schedule.

Main Issue

2. Planning permission was given in 2020 for a two storey dwelling. Work is in progress. It is proposed to amend the previously permitted hipped roof to a gable end. The main issue is the effect that this would have on the character and appearance of the surrounding area.

Reasons

3. Within this residential area the predominant main roof form is hipped. This is especially so in this part of Hurstbourne Gardens. There are nevertheless several examples of main gables in the vicinity and they are conventional features of domestic architecture. Furthermore, the proposal would replicate the roof at No 87 to which it would be attached.
4. The proposed roof would be at the end of a long row of houses. This is not seen as a single entity. Therefore reinstating the original symmetry of a hip at both ends of the terrace is not a critical design requirement as its 'unbalanced'

appearance would not be apparent. The National Planning Policy Framework highlights the importance of achieving well-designed places and the proposal would be entirely compatible with the neighbourhood. There would be no harm to the character and appearance of the surrounding area.

5. As such, there would be no conflict with Policy CP3 of the Core Strategy which expects a high quality built environment or Policy BP11 of the Borough Wide Development Policies which is concerned with urban design. The policies referred to in The London Plan set the framework for delivering good design and are not directly applicable to small-scale proposals such as this.

Conditions

6. Planning Practice Guidance indicates that when granting permission under section 73, decisions should restate the conditions imposed on earlier permissions that continue to have effect. There is therefore no need to include a condition requiring an investigation of potential contamination before development commences.
7. Other conditions are necessary to confirm the approved drawings and to ensure a satisfactory external appearance, living conditions and parking arrangements. Subject to some re-wording in the interests of clarity, conditions relating to materials, the front garden treatment, boundary fencing and the provision of the car parking space should therefore be imposed. As the garden area of the new dwelling would be smaller than others in the area, the removal of permitted development rights for extensions that would reduce its size is warranted. However, there is no justification for precluding roof alterations or enlargement as permitted development. The condition regarding accessible housing duplicates the Building Regulations and the reason for it refers to a superseded policy from The London Plan. The need for this condition has therefore not been substantiated.

Conclusion

8. Changing the permitted hipped roof to a gable would not cause visual harm to the locality and is in accordance with the development plan. There are no other considerations to outweigh that finding. Therefore the appeal should succeed and a further planning permission should be granted.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with drawing numbers: 01, 05, 06, 07A, 08A and 09A.
- 2) The external materials to be used in the construction of the dwelling hereby permitted shall match those of the existing building at 87 Hurstbourne Gardens.
- 3) The dwelling hereby permitted shall not be occupied until a scheme of hard surfacing, landscaping and boundary treatment of the front garden has been completed in accordance with details that have previously been submitted to and approved in writing by the local planning authority.
- 4) The dwelling hereby permitted shall not be occupied until the fencing along the side and rear boundaries has been installed as shown on drawing number 01 and the fencing shall thereafter be retained.
- 5) The car parking space shown on drawing number 01 shall be provided prior to the occupation of the dwelling hereby permitted. Thereafter that space shall remain available for the parking of vehicles.
- 6) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development falling within Class A in Part 1 of Schedule 2 to that Order shall be carried out.