



Appeal Decision

Site visit made on 1 February 2022

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2022

Appeal Ref: APP/Z5060/C/21/3286324

407 Whalebone Lane North Dagenham RM6 6RH

- 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 Miss Tani Beema against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
 - The enforcement notice was issued on 12 October 2021.
 - 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) 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 be:
 - Varied by deleting the words "3 months" within section 6 (Time for Compliance) and its replacement with "6 months".
2. Subject to this variation, the appeal is dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal on ground (a), the deemed planning application

Main Issue

3. The main issue is the effect of the development upon the living conditions for the occupiers of 409 Whalebone Lane North, with particular regard to outlook.

Reasons

4. The Council's Residential Extensions and Alterations Supplementary Planning Document, 2012 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 (figure 2). 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 (figure 3)". However, contrary to the above guidance the unauthorised extension as built, exceeds this maximum depth and is not within a 45 degree angle as measured from the corner of adjacent dwellings.

5. The adjoining property at No 409 Whalebone Lane North has built their own single storey rear extension along the boundary with the appeal site. Nevertheless, the excessive depth of the unauthorised 'as built' rear extension (garage/store) at the appeal site extends considerably deeper than this neighbouring extension. As a result, the unauthorised extension appears as a dominant feature in the outlook from the rear garden of No 409. The outlook is also made worse by the current poor finish of the extension, comprising unfinished rendered walls. In this respect the as built garage/store extension results in an overbearing form of development to the occupiers of no 409, which harms their living conditions.
6. Therefore, the development fails to provide acceptable living conditions for occupiers of 409 Whalebone Lane North, with particular regard to outlook. Accordingly, the development is contrary to Policies BP8 and BP11 of The London Borough of Barking Borough Wide Development Policies Development Plan Document, 2011, which amongst other things states that all developments are expected to.... not lead to significant overlooking (loss of privacy and immediate outlook) and should protect or enhance the character and amenity of the area.

Other Matters

7. Section 177(1) of the Act allows me to grant planning permission in respect of the matters stated in the Notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the Notice relates. The appellant has submitted further proposed drawings¹ which she considers would overcome the harm to the neighbouring occupiers at No 409. The proposed drawings illustrate that the rearmost part of the structure (labelled 'store') would be demolished entirely, leaving only the area shown on the drawings labelled 'garage'. The proposed drawings also show a reduction in height of the front parapet wall, and the appellant states that the final finish of the garage would be rendered to match the existing property.
8. I consider that this revised development, which involves revisions to the footprint and size of the extension, as well as changes to the finish of the extension would be a materially different scheme which does not form part of the development before me and thus does not fall within the scope of the deemed application. Indeed, it is open to the appellant to submit a planning application to the Council for this revised scheme if they so wish. The time for compliance stated in the Enforcement Notice is currently 3 months. However, in order to provide the appellant with additional time to submit a planning application for a revised scheme, and carry out and any subsequent remedial works, I consider that this period needs to be prolonged by a further 3 months. In my opinion, 6 months would strike a more reasonable and proportionate balance, and I will therefore vary the notice accordingly.

¹ Drawings No: ZAAVIA/407WLS/202/A, ZAAVIA/407WLS/203/A, ZAAVIA/407WLS/205/A, ZAAVIA/407WLS/206/A and ZAAVIA/407WLS/208/A.

Conclusion

9. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR