



Appeal Decisions

Site visit made on 9 February 2022

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2022

Appeal A: APP/Z5060/C/20/3265886

Land and Premises at 171 Dagenham Road, Romford RM7 0TL

- 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 Khalil Shaikh against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
- The enforcement notice was issued on 30 November 2020.
- The breach of planning control as alleged in the notice is Without planning permission, the unauthorised erection of a canopy at the rear of the property.
- The requirements of the notice are Remove the unauthorised canopy 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) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B: APP/Z5060/W/20/3265434

171 Dagenham Road, Rush Green, Romford, RM7 0TL

- 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 Khalil Shaikh against the decision of the London Borough of Barking & Dagenham.
- The application Ref 19/01910/FUL, dated 18 December 2019, was refused by notice dated 27 October 2020.
- The development proposed is Erection of a roof shade outside patio door in the garden for disabled person.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Appeal A on ground (a) and Appeal B

Procedural Matter

1. For the avoidance of doubt the development subject to the planning application has already been completed. This is confirmed on the application form and the application was therefore made retrospectively. It relates to the same development as that subject to the enforcement notice.

Reasons

Main Issues

2. The main issues are the effect of the development on i) the character and appearance of the original dwelling and wider area and ii) the living conditions of neighbouring residents with particular regard to daylight, outlook and privacy.

Character and Appearance

3. The appeal site is a mid-terrace property. From my visit I noted that the rear of the terrace is characterised by a variety of single storey extensions and relatively long rear gardens, a number of which contained outbuildings.
4. The canopy, subject to the notice and retrospective application, essentially comprises a timber frame with open back and substantially open sides, though with screen fencing in place. It is contained beneath a flat roof. The frame is constructed on a raised concrete base, edged with brickwork. The canopy is built onto the back of a previously constructed single storey rear extension and extends across the full width of the property.
5. The limited height of the structure incorporating void spaces, as opposed to solid elevations, which serve to reveal the rear elevation of the original extension, reduces its sense of presence. There is similarity in the colouring of materials between the structure and the rear elevation of the dwelling. When also taking into account the presence of various existing rear extensions along the terrace, including a similar, albeit shorter, canopy at the neighbouring property (No 173), I consider that the structure appears relatively well integrated and unobtrusive.
6. I conclude that the development does not appear as a disproportionate and unsympathetic addition, and does not result in harm to the character and appearance of the dwelling or the wider terrace. Accordingly it does not conflict with Policies D4 of the London Plan 2021 (LP); CP3 of the Barking and Dagenham Core Strategy 2010 (CS); BP11 of the Borough Wide Development Policies Development Plan Document 2011 (DPD); the Council's Residential Extensions and Alterations Supplementary Planning Document 2012 (SPD); Policies SP 2, DMD 1 and DMD 6 of the emerging Local Plan and the National Planning Policy Framework (the Framework) insofar as they seek to secure high quality design, that protects or enhances the character of the area and is sympathetic to the design of the original building.
7. The development was also cited to be in conflict with Policy SP 4 of the emerging Local Plan. However this policy is concerned with the provision of social and cultural infrastructure and is not therefore relevant in this case.

Living Conditions

8. In combination with the existing rear extension, the canopy results in a significant projection of development from the rear of the property. However, when considering the presence of a similar, albeit shorter extension to the rear of the neighbouring property at No 173, and also the position of that development to the south of the appeal site I am satisfied that the canopy does not result in harm to natural light entering that property.

9. In terms of No 169 to the north, there is a rear extension covering over half the width of the property, but offset from the canopy. This leaves a recessed alcove at the rear of No 169, between the two existing rear extensions, which appears to be used as a covered seating area. I accept that the projection of the canopy is likely to result in some loss of natural light entering the neighbouring property. However I consider that the degree of impact would be substantially mitigated by the design of the structure itself, insofar as it incorporates substantially open sides and a flat roof, and also because the relatively narrow gap between the existing extensions is likely to impact more significantly on light entering the rear elevation window adjacent to the alcove.
10. The canopy itself is likely to have a more noticeable impact in terms of natural light falling on the rear garden area of the neighbouring property. However when considering the generous size of rear gardens I am not persuaded that this would result in any substantial loss of amenity.
11. In terms of outlook, whilst visible, when considering the partially open-sided and flat roofed construction of the canopy, together with the relatively generous length of rear gardens, unimpeded by substantial structures, I am satisfied that the canopy does not result in an excessive sense of enclosure and oppressive living conditions for neighbouring residents.
12. The canopy is separated from the adjoining properties to the side by screen fencing. Despite the floor level of the structure being raised, I am satisfied that it does not result in neighbouring properties being overlooked to any significant degree. Whilst it would be possible to sit within the canopy area and look back towards the rear elevation of the adjoining property at No 169, this would be little different to what may happen in an open garden, in relation to which the use of the canopy would be similarly limited given its substantially open nature. I conclude that the privacy of residents would not therefore be unduly compromised.
13. Drawing the above considerations together I conclude that the development does not result in harm to the living conditions of neighbouring residents with particular regard to daylight, outlook and privacy. Accordingly I do not find conflict with Policy D4 of the LP; CP3 of the CS; BP8 of the DPD; Policies SP 2, DMD 1 and DMD 6 of the emerging Local Plan or with the Framework insofar as they seek high quality built environments and the protection of living conditions.
14. I acknowledge that the development would exceed the size limitations set by guidance within the SPD relating to the maximum depth of extensions. However this guidance does not specifically refer to canopies, with a significant amount of void space, and it seems to me that the specific circumstances of the development in this case, including its siting and design attributes would not be grounds for refusal in the context of the SPD.

Other Matters

15. I acknowledge the representations that have been made regarding the appellant's disability. However, because I have found the canopy to be acceptable for the reasons set out above, there is no need for me to go on to consider the significance of this factor in itself.

Conditions

16. I have considered the conditions suggested by the Council in the event that the appeal is allowed. A condition confirming the relevant plans is necessary in order to promote certainty. A condition requiring screening to be retained along the side elevations is required in order to prevent the overlooking of neighbouring properties, but without the side elevation adjacent to No 169 being fully developed in order to safeguard light. A condition controlling external materials is not necessary, as the canopy has already been built.

Conclusion

Appeal A

17. For the reasons given above I conclude that the appeal on ground (a) should succeed. I shall grant planning permission for the development as described in the notice. The appeal on ground (g) does not therefore fall to be considered.

Appeal B

18. For the reasons given above I conclude that the appeal should be allowed.

Formal Decisions

Appeal A

19. 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 unauthorised erection of a canopy at the rear of the property at 171 Dagenham Road, Romford RM7 0TL as shown on the plan attached to the notice and subject to the conditions in the schedule below.

Appeal B

20. The appeal is allowed and planning permission is granted for Erection of a roof shade outside patio door in the garden for disabled person at 171 Dagenham Road, Rush Green, Romford, RM7 0TL in accordance with the terms of the application Ref 19/01910/FUL, dated 18 December 2019, and subject to the conditions in the schedule below.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; 3D sketch showing rear elevation; Ground Floor Plan; Site Plan; Right Side Elevation; Left Side Elevation.
- 2) Obscure screen fencing of 1.7 metres in height above the floor level of the canopy shall be retained at all times along the side elevations of the canopy with Nos 169 and 173 Dagenham Road. The space between the top of the screen fencing and the roof of the canopy, along the side elevation of No 169 Dagenham Road, shall be left open at all times.

END OF SCHEDULE OF CONDITIONS