
Appeal Decision

Site visit made on 19 April 2022

by H Lock BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23RD May 2022

Appeal Ref: APP/W5780/D/21/3286718
67 Inglehurst Gardens, Ilford, IG4 5HE

- 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 Dr. Jasvir Bhamrah against the decision of the Council of the London Borough of Redbridge.
 - The application Ref. 3103/21, dated 20 July 2021, was refused by notice dated 13 September 2021.
 - The development proposed is described as 'retention of a single storey ground floor rear extension'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description in the banner heading has been taken from the planning application form, but I have omitted reference to 'retention of' in the formal decision to reflect the definition of development within the Planning Acts.

Background

3. The extension the subject of this appeal is already in place. In 2019, a planning application (ref. 2526/19) for an 'L'-shaped single storey rear extension was refused by the Council. It had the same footprint as the extension the subject of this appeal.
4. Two further applications were submitted: planning permission was granted on 12 December 2019 for a 3.5m deep rear extension spanning the width of the property under ref. 4434/19. A Prior Approval application (ref. 4419/19) for a narrower, 6m deep extension adjacent to the shared boundary with 65 Inglehurst Gardens was determined as not requiring approval on 2 January 2020.
5. The extension constructed is an amalgamation of the two, and has not been built in accordance with either application.

Main Issues

6. The main issues are the effect of the extension on (1) the character and appearance of the appeal property and the local area; and (2) the living conditions of occupants of 65 Inglehurst Gardens (No.65), with particular reference to outlook and sense of enclosure.

Reasons

Character and Appearance

7. The appeal property is a mid-terraced house located in an area where there are a mix of rear extensions in terms of size and form. This and the attached dwellings have two-storey rear projections, with that on the appeal property being flat roofed. It is to this that the extension the subject of this appeal has been added.
8. Amongst other criteria, Policy LP30 of the Redbridge Local Plan 2018 (LP) requires extensions to complement the character of a building in matters including scale, style and form; and also, to be subordinate to the existing building in terms of size, scale or height. This is supported by guidance in the 'Housing Design' Supplementary Planning Document 2019 (SPD), which advises that, as a general rule, single-storey rear extensions on a terraced house should be limited to a depth of 3.5m. It advises that greater depths will only be acceptable where this would be consistent with adjoining properties, and that 'creep' beyond the adjoining neighbours would generally not be supported.
9. When viewed from the rear garden of the appeal property, the design of the addition appears in keeping with the existing two-storey flat roofed element, and suitable for the plot size. However, whilst subordinate in height, the deepest section is disproportionately long relative to the host dwelling, and in this regard out of character in terms of its scale and form. The excessive depth and bulk are likely to be appreciated more in views from other properties than from the garden of the appeal site. Whilst I note that the extension has no adverse impact on the streetscene, I share the Council's assessment that extensions in the vicinity appear to be more modest in depth, and as such the appeal development is not reflective of the general character and appearance of the area.
10. I appreciate the appellant's view that the Council's SPD is incompatible with the introduction of Permitted Development rights for larger home extensions (up to 6m on a terraced house), and upward extensions to create extra living space. However, this would not override an assessment against development plan policies when determining applications and appeals.
11. I therefore conclude the extension detracts from the character and appearance of the dwelling and the wider area, contrary to the aims of LP Policy LP30, and LP Policy LP26, which seeks development that respects the local character of the area and makes a positive architectural and urban design contribution to its context and location, as supported by the guidance in the SPD.

Living Conditions

12. The extension has been built alongside but inset from the shared boundary with No.65, which has its own two-storey element but no single-storey extension. As such, the proposal forms a deep wall alongside the garden, albeit adjacent to a raised deck area. There is one ground-floor rear-facing window in the element closest to the boundary, which the neighbouring occupant advises is a kitchen window.
13. I appreciate the appellant's view that no objections were submitted to previous applications at the site. However, as a result of the depth and proximity to the

boundary, I have no reason to doubt the neighbour's assertion that the extension is an unacceptably dominant and visually intrusive addition that creates an undue sense of enclosure for occupants of No.65. This is at odds with the requirement of LP Policy LP26 to ensure that development does not result in an adverse impact upon the amenity of neighbouring occupiers in relation to matters including outlook.

14. However, I share the Council's assessment that the stepped projection of the extension and its more limited depth on the boundary with No.69 means that it does not result in significant harm for occupants of that property.
15. I therefore conclude that the extension has diminished the outlook for occupants of No.65 to a degree that their living conditions are harmed, contrary to the aims of LP Policy LP26, and LP Policy LP30, which seeks to avoid adverse impacts from household extensions, and guidance contained in the SPD.

Planning Balance

16. I have found that the extension detracts from the character and appearance of the dwelling and the area, and also adversely affects the outlook from 65 Inglehurst Gardens. However, material considerations include the confirmation in January 2020 that Prior Approval was not required for the 6m deep extension set out in application 4419/19, and the grant of planning permission for a 3.5m deep addition under ref. 4434/19.
17. There appears to be no dispute that the development as built requires express planning permission. However, were the extension to be demolished, the appellant would be at liberty to construct the development the subject of application 4419/19. The Town and Country Planning (General permitted Development) Order 2015 (as amended¹) [GPDO] does not impose a time limit on the implementation of a development subject to the Prior Approval process, and a permission granted by the Order is continuous while that Order is in force or re-enacted, and unless the permission is revoked or withdrawn.
18. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. I have found the proposal to be contrary to the development plan, but consider that there are two realistic 'fallback' positions that are material to this appeal: the option to construct a narrower extension to the same depth as in this appeal, or the construction of a 3.5m deep extension for the full width of the property, in accordance with planning permission ref. 4434/19. I consider it highly likely that one of these options would be exercised were the appeal to be dismissed, given the appellant's stated need for the additional living space.
19. The appeal extension is larger in footprint, scale and bulk than that which could be built with Prior Approval, or that for which express planning permission has been granted. The appellant advises that the appeal extension would be no more out of character than what is already consented to build lawfully, but I

¹ Including the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 which came into effect on 25 May 2019, and made permanent the previously time-limited option to apply for deeper householder extensions.

consider the cumulative effect of the larger extension on the property to be more harmful. Consequently, the option to build either fallback development would not justify the harm arising from the development in this case.

20. However, with regard to the effect on the neighbouring property, the Prior Approval scheme would have the same impact on outlook as the extension that has been built. On this point, I find that the Prior Approval application would outweigh the conflict with planning policy. However, this does not alter my conclusion on the first main issue.

Other Matters

21. A letter submitted in response to consultation outlines a number of issues relating to the construction of the extension, Party Wall matters and Ancient Lights law. However, these are private matters between the parties, and beyond the scope for consideration in this appeal. A grant of planning permission would not override any civil land ownership issues.

Conclusion

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

H Lock

INSPECTOR