The Planning Inspectorate

Appeal Decision

Site visit made on 27 September 2022

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th October 2022

Appeal Ref: APP/Z5060/D/22/3300734
39 Lowry Road, Barking & Dagenham, Dagenham, RM8 2NL

- 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 Syed Masud Miah against the decision of the London Borough of Barking & Dagenham Council.
- The application Ref 22/00325/HSE dated 25 February 2022, was refused by notice dated 20 April 2022.
- The development proposed is alteration to front porch, construction of single storey front side extension, conversion of garage into a guest room and ground floor rear 3m extension.

Decision

1. The appeal is allowed and planning permission is granted for alteration to front porch, construction of single storey front side extension, conversion of garage into a guest room and ground floor rear 3m extension at 39 Lowry Road, Barking & Dagenham, Dagenham, RM8 2NL in accordance with the terms of the application ref: 22/00325/HSE dated 25 February 2022, subject to the following conditions:

1) The development to which this permission relates must be begun not later than the expiration of three years, beginning with the date of this decision;

2) The development hereby permitted shall be undertaken in complete accordance with the following approved plans: 2186/PL01 (proposed ground floor and roof plan), 2186/PL02 (proposed elevations) and 2186/SO-PL03 (block plan and site location plans);

3) The materials used in development hereby permitted shall match those of the existing dwelling unless details are submitted to, and approved in writing by, the Local Authority.

Procedural Matters

2. The Council's decision notice states that it considered the proposal against the plans listed which is stated to include plan reference 2186/S02 – proposed elevations. For the avoidance of doubt the proposed elevations plan reference is 2186/PL02. Plan reference 2186/S02 is in fact the existing elevations plan submitted. I have referred to the proposed plans only within the above condition.

3. The Council have referred to Draft Local Plan (Regulation 19 Consultation version, December 2021) but the cover of the documentation provided within the appeal submissions is that of Regulation 19 (September 2020) (emerging policy). Reference is made to Policy SP2; however, this relates to delivering

safe, convenient, accessible and inclusive built environment and interesting public spaces and social infrastructure for all and appears to be of no direct relevance to the issue raised within refusal reason before me.

Main Issue

4. The main issue is the impact of the proposal upon neighbouring amenity with regard to increased sense of overbearingness, loss of outlook and daylight.

Reasons

5. There are several elements to the appeal proposal and the Council's report confirms that the refusal reason is based upon the proposed single storey rear extension with regard to the impact upon neighbouring amenity for No. 11 Stubbs Mews as a result of the proposed projection. No refusal reason is based upon the alteration to the front porch, side extension or conversion of the garage and I have no evidence before me to conclude differently on these elements. For the avoidance of doubt the proposal will focus upon the proposed rear extension with regard to the main issue outlined above.

6. The appeal site is a two-storey, end of terrace, dwellinghouse located at the end of a banjo cul-de-sac within a residential area. The adjoining property, 11 Stubbs Mews, is located further forward than the appeal proposal which results in the original rear elevation of the appeal site already projecting forward of the rear elevation of the neighbouring dwelling by around 3.2m. The proposed single storey rear extension would project 3m from the original rear elevation of the appeal site for the full width of the host dwelling with a flat roof structure. The overall height would be 3m and the proposal would be set in, from the neighbouring boundary with 11 Stubbs Mews, by around 0.8m.

7. The Residential Extensions and Alterations Supplementary Planning Document 2012 (SPD) provides guidance that if the house is terraced or semi-detached the depth of the extension should not normally exceed 3.65m as measured from the original rear wall and, for flat roofs, the height should not exceed 3m. As acknowledged by the Council, within their delegated report, I find that the proposal is consistent with this guidance with regard to scale and massing.

8. I note that the neighbouring property is set back 3.2m already and that this, combined with the proposed rear extension, would result in the rear extension at the appeal site effectively extending 6.2m from the rear elevation of 11 Stubbs Mews. The 6.2m resulting projection from the neighbouring dwelling is noted by the Council and I also noted the neighbouring outbuilding at the time of my site visit. I would consider due to the existing positioning of the appeal site and relationship with 11 Stubbs Mews, that the proposed rear extension would not exceed 3m in height or depth and that it is set from the boundary and behind an existing solid fence that the proposal would not result in impacts sufficient to warrant refusal with regard to overbearingness, loss of outlook or daylight.

9. The proposal would be a relatively minor increase in built form when combined with the existing site layout and boundary fencing. There would be some limited impact as a result of increased built form but I do not find this would be significant as a result of the factors outlined. Whilst a lack of objection is a neutral consideration it is none the less noted in this case and I do not find that

the proposal would result in significant impact to neighbouring residential amenity.

10. Of direct relevance to the above is section 5 of the SPD. It directly confirms that the rear extension element, whilst noted to be submitted as part of a full householder application in this case, would most likely not require planning permission. Examples of similar rear extensions are noted, by the appellant's agent, as likely having been constructed under permitted development rights (not requiring prior approval) as advised by the SPD. If this appeal failed it is more than probable the appellant could achieve the same level of development through a combination of well-ordered permitted development and householder permission.

11. The above I find creates a realistic fallback for the appellant to create essentially the same single storey rear extension, which would result in exactly the same limited impact to the neighbours, in breach of the 45-degree line, with no control from the Council. As a result of the fact that the proposal does comply with the SPD guidance, does not result in significant impact as outlined above and the aforementioned fallback position I find that there is no justifiable refusal reason for this element based upon the evidence before me in this appeal.

12. The proposal would be consistent with London Plan 2021 Policy D4, Local Development Framework Core Strategy 2010 Policy CP3, Local Development Framework Borough Wide Development Policies Development Plan Document 2011 Policy BP8 and Policy BP11 in so as far as they relate to, and seek to ensure, good design that has had regard for the amenity of neighbouring occupiers and not result in significant impact.

13. The proposal would also be consistent with emerging policy DMD1 which requires consideration of the impact on the amenity of neighbouring properties with regard to outlook and overshadowing and Policy DMD6 which requires proposals to be designed in an appropriate manner in line with the latest Government guidance such as permitted development rights (PD) and the latest SPD and consider the impact on the amenity of neighbouring properties. The proposal would also be consistent with the overarching objectives of the National Planning Policy Framework 2021 paragraph 130 f) which seeks to ensure a high standard of amenity for existing and future users.

Other Matters

14. The appellant considers that design and impact on the character and appearance is a main issue; however, the refusal reason is specific to impact upon neighbouring occupiers. It does not raise refusal reason based upon character and appearance of the host dwelling or the area and I have no reason to conclude differently based upon the Council's assessment and my site visit. I have determined the appeal based upon the element and main issues references within the refusal reason as outlined above.

15. A third party comment is noted with regard to dust and noise, however, given the scale of the proposal and the overall short term nature of construction for a residential extension I do not find it proportionate to apply a condition requiring submission of a Construction Management Plan in this case.

Conditions

16. The Council have suggested three standard conditions which I have applied. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent. A materials condition is required to ensure the proposal matches the host dwelling and that any deviations in materials from existing are approved by the Council to ensure an appropriate finish.

Conclusion

17. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR