
Appeal Decision

Site visit made on 21 March 2023

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 April 2023

Appeal Ref: APP/B5480/C/22/3312368
212 Front Lane, Upminster RM14 1LW

- 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 Andrew Fennell against an enforcement notice issued by the Council of the London Borough of Havering.
 - The enforcement notice was issued on 3 November 2022.
 - The breach of planning control as alleged in the notice is 1. Without planning permission, the erection of a balcony to the rear of the property; 2. Without planning permission, the construction of a rear dormer window in the roof.
 - The requirements of the notice are:
 - (i) Remove /demolish the balcony entirely (including any balustrades and means of enclosure); AND
 - (ii) Demolish the rear dormer window; OR
 - (iii) Clad all external surfaces of the dormer in tiles to match that of the roof of the main dwelling; AND
 - (iv) Remove all other debris, rubbish or other materials accumulated as a result of taking steps (i) to (iii) above.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) 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. 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 erection of a balcony to the rear of the property and the construction of a rear dormer window in the roof at 212 Front Lane, Upminster RM14 1LW, referred to in the notice.

Main Issues

2. The main issues are:
 - the effect of the unauthorised development upon the character and appearance of the host building and area; and
 - the effect of the balcony on the living conditions for the neighbouring occupiers of 210 and 214 Front Lane with regard to privacy.

Reasons

Character and appearance

3. The appeal site relates to a semi-detached two storey property within a residential area, characterised by a mix of detached and semi-detached houses and bungalows, with brick, render, timber cladding or pebble dash external finish. During my site visit I observed the variety of building types and materials along the road creates visual interest. I also observed that a number of the properties in the area have been altered and extended at roof level which has affected the original form and symmetry of the groups of semi-detached properties.
4. The Council's Residential Extensions and Alterations Supplementary Planning Document, 2011 (SPD) states that "*dormers should be contained well within the body of the roof, by being set well back from the eaves, and by setting the sides well in from any gables or party walls.*" The dormer as built occupies a large area of the rear roof slope and therefore is not strictly in accordance with the above guidance.
5. However, one of the requirements of the notice allows for the existing rear dormer to remain, but for the external surfaces to be finished in tiles to match that of the roof of the dwelling. This leads me to conclude that the size, bulk, and scale of rear dormer roof extension is acceptable in principle, and this therefore represents a legitimate fallback position against which to assess the current development.
6. The rear dormer is finished in render on the rear and side elevation only. Whilst this is not the similar in appearance to the original roof tiles, render is a material characteristic of the area. In addition, render finish matches the external finish at ground and first floor levels, giving an integrated appearance with the main dwelling and surrounding properties. Furthermore, the rear balcony, with metal railings painted black, is modest in size and appearance and does not significantly alter the size, bulk, and appearance of the roof extension.
7. I therefore conclude that the unauthorised development preserves the character and appearance of the host building and area, in accordance with policy 26 of the Havering Local Plan 2016 – 2031, adopted in 2021 (Local Plan) and Policy D4 of the London Plan, 2021 (London Plan). Amongst other things, these seek to deliver good design and state that the Council will promote high quality design that contributes to the creation of successful places in Havering by supporting development proposals that are informed by, respect and complement the distinctive qualities, identity, character and geographical features of the site and local area.
8. The development also complies with aims of part 12 of the National Planning Policy Framework, 2021, which requires development to be sympathetic to local character and history.

Living conditions for occupiers of 210 and 214 Front - privacy

9. The Council's SPD states that "privacy can be safeguarded through adequate window-to-window or window-to-balcony distances between buildings or by appropriate fencing." The installation of the balcony at roof level at the rear

provides views over the rear garden of the appeal site and neighbouring gardens.

10. However, given the degree to which existing upper floor windows look towards adjoining gardens, the very modest size of the balcony which projects only a limited distance from the rear of the roof, the angles of vision that are created by the development and the distances involved, the balcony does not result in additional loss of privacy due to overlooking.
11. I therefore conclude that the balcony does not have a harmful effect on the living conditions of the neighbouring occupiers of 210 and 214 Front Lane with regard to privacy. In this respect the development complies with Policies 7 and 34 of the Local Plan. Amongst other things these state that to protect the amenity of existing and future residents the Council will support developments that do not result in unacceptable overlooking or loss of privacy; and do not unduly impact upon amenity.
12. The development is also in accordance with paragraph 130 of the Framework which seeks to ensure all developments creates places with a high standard of amenity for existing and future user.

Other Matters

13. The Council have also referred to Policy D5 of the London Plan. However, this relates to accessible and inclusive design which does not appear to be relevant to the case advanced by the Council.
14. The site is located within the Metropolitan Green Belt. However, the Council have raised no objection to the development on grounds of harm to the Green Belt, by way of loss of openness or inappropriate development. I find no reason to disagree with the Council's assessment on this matter.
15. No conditions have been suggested by the Council and as the development appears to be completed, there is no need for any.

Conclusion

16. For the reasons given above I conclude that the appeal succeeds on ground on ground (a). I shall grant planning permission for the development described in the enforcement notice. The enforcement notice will be quashed, and it follows that the appeal on grounds (f) and (g) do not fall to be considered.

R Satheesan

INSPECTOR