
Appeal Decisions

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: 04 April 2023

Appeal A Ref: APP/B5480/C/22/3303869

11 St Lawrence Road, Upminster RM14 2UN

- 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 Ms Jahan against an enforcement notice issued by the Council of the London Borough of Havering.
 - The enforcement notice was issued on 1 July 2022.
 - The breach of planning control as alleged in the notice is without planning permission, operational development comprising the extension and alteration of an outbuilding.
 - The requirements of the notice are:
 1. Demolish the outbuilding in the rear garden; OR
 2. Reduce the height of the outbuilding at any point as measured externally to no more than 2.5 metres in height; AND
 3. Remove the first floor window in the gable end of the outbuilding; AND
 4. Demolish the pergola added to the front of the outbuilding; AND
 5. Remove all debris rubbish or other materials, from the site as a result of taking steps (1-4) 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) 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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Appeal B Ref: APP/B5480/W/22/3303144

11 St Lawrence Road, Havering, Upminster RM14 2UN

- 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 Ms Jahan against the decision of the Council of the London Borough of Havering.
 - The application Ref: P0213.22, dated 12 February 2022, was refused by notice dated 27 May 2022.
 - The development proposed is described as "Single storey rear extension, alterations to openings, internal alterations, and associated works. Retrospective repairs to the outbuilding to include new roof with increase in ridge height and attached pergola."
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Decisions

1. **Appeal A:** It is directed that the enforcement notice be:
 - varied by deleting the words "2 months" within section 6 (Time for Compliance) and its replacement with "5 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.
3. **Appeal B:** The appeal is dismissed insofar as it relates to the retrospective repairs to the outbuilding to include new roof with increase in ridge height and attached pergola. The appeal is allowed insofar as it relates to the single storey rear extension, alterations to openings, internal alterations, and associated works at 11 St Lawrence Road, Upminster RM14 2UN in accordance with the terms of the application, Ref P0213.22, dated 12 February 2022, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted, shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted, insofar as it relates to the single storey rear extension, alterations to openings, internal alterations, and associated works, shall be carried out in accordance with the following approved plans: 01; 200; 201A.
 - 3) The external surfaces of the rear extension hereby permitted shall match those used in the construction of the existing building.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no external windows or doors other than those shown on the approved drawings shall be installed in the flank walls of the extension hereby permitted.
 - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no balustrades or other means of enclosure shall be erected on the roof of the extension hereby permitted. No part of the roof of the extension shall be used for recreational purposes and access shall only be for purposes of the maintenance of the property or means of emergency escape.

Procedural matters

4. In the banner heading above, I have based the description of development on that given in an e-mail from the appellant's agent to the Council on 31 March 2022, in respect of Appeal B. This is a more accurate and concise description of the proposed development than that given in the application form.

Appeal A on ground (a), the deemed planning application and Appeal B

5. As set out above there are two appeals on this site. I have considered each appeal on its individual merits. Ground (a) is that planning permission should be granted for the matters stated in the notice. Since the planning appeal is against refusal of permission for identical development carried out to alter and extend the outbuilding, and the considerations are similar, I have therefore treated both cases together, to avoid duplication, except where otherwise indicated.

6. However, the development described in the enforcement notice (Appeal A) does not refer to the single storey rear extension. Therefore, the proposed rear extension to the main dwelling does not form part of the appeal on ground (a) and the DPA. Thus, the appeals differ in so far as Appeal B also involves the erection of a single storey rear extension.

Main Issues

7. The main issues in both appeals are the effect of the altered and extended outbuilding on:
- The character and appearance of the area;
 - The living conditions for the occupiers of 9 and 13 St Lawrence Road and 9 Howard Road, with particular regard to outlook; and
 - The living conditions for the occupiers of 9 and 13 St Lawrence Road, with particular regard to privacy.
8. With regard to Appeal B there is the additional main issue:
- The effect of the proposed single storey rear extension on the living conditions for the occupiers 13 St Lawrence Road, with particular regard to light and outlook.

Reasons

Appeals A and B: Effect of the altered and extended outbuilding on the character and appearance

9. The appeal site relates to a two-storey semi-detached dwelling located within a residential area. The appeal development comprises the extension and alteration of an outbuilding. The Council's Residential Extensions and Alterations Supplementary Planning Document, 2011 (SPD) states "The outbuilding should be subordinate in scale to the existing dwelling and to the plot. In assessing proposals, the Council will consider factors such as the scale, height, proximity to boundaries, roof design, finishing materials and prominence in the street scene or rear garden environment. As with all extensions, outbuildings should not detract from the character of the area." Whilst the Council's SPD is guidance only, its emphasis on good design is consistent with the Framework.
10. However, contrary to the above guidance the alterations of the outbuilding including its additional, size, depth and height with a ridged roof extend the building, such that the additions are no longer sub-ordinate to the original dwelling. None of the other properties in the immediate vicinity of the site contain outbuildings of a similar overall height, size, and scale. Despite the use of materials which are not dissimilar to those found in the locality, the excessive height, scale, and size of the outbuilding introduce an overly dominant and visually discordant feature, which fails to harmonise with its rear garden setting, and is also visible from public vantage points on St Lawrence Road. Furthermore, the implementation of additional landscaping and ecological improvements would not overcome this harm.
11. Therefore, the altered and extended outbuilding results in harm to the character and appearance of the area. Accordingly, the development is contrary to Policies 7 and 26 of the Havering Local Plan 2016 – 2031, adopted

in 2021(Local Plan). Amongst other things, these state that residential development should be of a high standard of design and require that development proposals respect character and reinforce and compliment the local streetscene.

Appeals A and B: Effect of the altered and extended outbuilding on the living conditions for the occupiers of 9 and 13 St Lawrence Road and 9 Howard Road-outlook

12. The Council's SPD states that "*Outbuildings should not cause undue loss of light to neighbouring properties or adversely affect the living conditions of neighbouring properties.*" The excessive height, size and scale of the outbuilding, results in a visually intrusive, dominant, and unneighbourly form of development, built close to the boundary with the neighbouring residential properties at Nos 9 and 13 and 8 Howard Road. This results in harm to the living conditions for the occupiers of these neighbouring properties, with regard to outlook.
13. Therefore, the development fails to provide acceptable living conditions for occupiers of 9 and 13 St Lawrence Road and 9 Howard Road, with regard to outlook. Accordingly, the development is contrary to Policy 7 of the Local Plan, which amongst other things 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 or outlook.

Appeals A and B: Effect of the altered outbuilding on the living conditions for the occupiers of 9 and 13 St Lawrence Road - privacy

14. Despite the current use of the first floor being used for storage, I observed during my site visit that the new window in the roof of outbuilding provides additional views into the windows in the rear elevation of Nos 9 and 13 St Lawrence Road.
15. The appellant states that they are willing to accept a condition that requires this window to be obscure glazed. Whilst in principle this would appear to overcome any harm in terms of loss of privacy and intrusive overlooking to neighbouring occupiers of St Lawrence Road, limited details have been provided to demonstrate how this has been achieved and that these windows would remain permanently obscure glazed to prevent overlooking.
16. If the appeal were allowed, a condition would be attached requiring specific details of the obscure glazing to be submitted to the Council for approval, including how the windows would remain permanently obscured. I am therefore satisfied that subject to this condition the new upper floor window in the gable would not result in any harmful overlooking to neighbouring occupiers of Nos 9 and 13.
17. I therefore conclude that subject to a condition requiring the details of the obscure glazing to be submitted to the Council for approval, the extended and altered outbuilding does not result in harm to the living conditions for residential occupiers of 9 and 13 St Lawrence Road with particular regard to privacy. As such I find no conflict with Policy 7 of the Local Plan, which amongst other things, 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.

18. However, this is just one matter in the overall assessment of the development and does not alter my judgement set out earlier, regarding the extended outbuilding.

Appeal B only: Effect of the single storey rear extension on the living conditions for the occupiers 13 St Lawrence Road - light and outlook

19. No 13 St Lawrence Road has a number of windows, including habitable room windows at ground floor level in the rear and side elevation of that property. The Council's SPD advises that as a general rule semi-detached properties can be extended up to 4m in depth and that any greater depth should be within an angle of 45 degrees taken from 4m dimension on the property boundary (as shown in figure 2 of the SPD). The SPD also states that the total height of a single storey extension with a flat roof should generally be no more than 3m to ensure there is no unreasonable loss of amenity to neighbouring properties or reduction in sunlight or daylight.
20. Although the extension marginally exceeds the 3m height requirement and does not accord with the 45 degree angle requirement of the SPD stated above, the flat roof design of the extension ensures that the overall height of the development is not excessive for this semi-detached property, and I observed during my site that the proposal is not dissimilar in height, size and scale to other rear extensions built along St Lawrence Road. Furthermore, a gap would be maintained between the side passageways of Nos 11 and 13, which ensures that the extension would be set away from the shared boundary with No 13. Therefore, on this occasion, I do not consider that the light and outlook from this neighbouring property would be unduly affected.
21. I therefore conclude that the proposed single storey rear extension would not have a harmful effect in relation to light and outlook for the occupiers of 13 St Lawrence Road, in accordance with Policies 7 and 26 of the Local Plan. Amongst other things these require development proposals to fully integrate with neighbouring developments and support developments that do not result in unacceptable overlooking or loss of privacy or outlook, loss of daylight and sunlight.

Other Matters

22. Comments made by third parties have been considered but do not alter the conclusions reached in this decision. A concern has been raised that the development would result in noise and disruption for neighbouring occupiers. Whilst I have some sympathy for existing occupiers in these circumstances, particularly those suffering from health issues, the works would be time limited, and it would not be reasonable to withhold permission on this basis alone.
23. I note that planning permission has been previously refused for rear extensions at the above site. However, the current proposed development has been revised since those earlier applications and appeals and the current proposal no longer incorporates a first-floor rear extension. I have therefore assessed the current appeals on their own merits.

Conclusions on Appeal A on ground (a), the DPA and Appeal B

24. For all of the above reasons, I conclude that the single storey rear extension, alterations to openings, internal alterations, and associated works, proposed in

Appeal B does not harm the living conditions of nearby residents and preserves the character and appearance of the area.

25. On the other hand, I conclude that the extension and alteration of the existing outbuilding in both Appeals A and B has a harmful effect on the character and appearance of the area and the living conditions for neighbouring occupiers.
26. Following on from these conclusions, I intend to allow Appeal B in so far as it relates to the single storey rear extension, alterations to openings, internal alterations, and associated works only. As the single storey rear extension and outbuilding are physically and functionally severable, I consider a split decision would be a logical outcome for Appeal B only.

Conditions for Appeal B only

27. I have considered the conditions proposed by the Council, and in the interest of accuracy and clarity I have undertaken some minor editing. Apart from the usual time limitations, a condition specifying the approved drawings is necessary to provide certainty. A condition is imposed to require matching materials to be used, in the interest of the character and appearance of the area. Conditions relating to the use of the flat roof and windows and doors, have been attached to protect the privacy of neighbours.

Appeal A only: The appeal on Ground (g)

28. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant asks that the time for compliance is extended from 2 to 9 months, in order to provide the appellant with additional time to raise funds, appoint a contractor and carry out the remedial works.
29. The time for completing the requirements should be what is reasonably considered necessary to complete the requirements. In my view, 5 months would strike a more reasonable and proportionate balance to carry out the actual works. I shall therefore extend the period from 2 to 5 months for compliance with the notice.
30. The appeal succeeds on ground (g), and I shall vary the notice accordingly.

Conclusion for Appeal A

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

Conclusion for Appeal B

32. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed in relation to the single storey rear extension, alterations to openings, internal alterations, and associated works. However, in relation to retrospective repairs to the outbuilding to include new roof with increase in ridge height and attached pergola the appeal should be dismissed.

R Satheesan

INSPECTOR