



Appeal Decision

Site visit made on 7 February 2023

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 April 2023

Appeal Ref: APP/Z5060/C/22/3297801

45 Lowry Road, Dagenham RM8 2NL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeal is made by Rukeya Akther against an enforcement notice issued by London Borough of Barking and Dagenham Council.
- The notice was issued on 7 April 2022.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a garage side extension.
- The requirements of the notice are to:
 - Remove the unauthorised garage side extension in its entirety.
 - Remove all subsequent waste material from the premises.
- The period for compliance with the requirements is:
6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) 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.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

Formal Decision

1. It is directed that the enforcement notice is corrected by the substitution of the 'Site plan' as originally attached to the notice with the site plan submitted by the Council by e-mail dated 23 February 2023¹ and appended to this decision.
2. Subject to the correction, the appeal is dismissed, 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.

Preliminary Matters

3. My attention has been drawn to a previous application for planning permission² (the 2021 application) and subsequent appeal³ at the appeal property for a 'single storey garage side extension'. The appeal was dismissed.
4. It is clear from the evidence provided to me that with regard to the previous application it was submitted to, and determined at least in part, in retrospect by both the Council and the Inspector. Noting the Inspector's observations and description set out in paragraphs 5 and 6 of the previous appeal decision, my observations of the site during my visit confirm that still to be the case. I have determined this appeal accordingly.

¹ E-mail timed at 10:52 referring to 'corrected site plan'

² LPA Ref No: 21/01916/HSE

³ APP/Z5060/D/22/3290139

5. The notice identifies the area of land to which it relates as being the 'land and premises at 45 Lowry Road...' shown edged blue on the site plan. That plan appears to show the blue line following the footprint of the appeal property's front and side elevations, and also its rear garden.
6. It is also clear, when comparing the contents of the plan that was attached to the notice with what has been built at the appeal property and the plans and drawings previously considered^{2&3}, that the notice's plan was incorrectly plotted. The Council has, having been asked to clarify the extent of the notice, provided a 'corrected' plan showing the blue-edged line encompassing a wider area of land. This includes an area at the side of the house within which the alleged unauthorised extension is located, and which follows the back edge of the pavement around a section of the head of the cul-de-sac. Beyond this, lie access and parking areas with a contrasting surface serving a handful of further properties. The revised plan now largely resembles that which was previously submitted as a site location plan (with red line) as part of the 2021 application scheme.
7. In response, the appellant has reiterated his ground (b) case that the notice should be withdrawn as the alleged unauthorised extension does not fall within the extent of the area identified by the notice. However, section 176(1)(a) of the Town and Country Planning Act 1990 (as amended) (the Act) allows for the correction of 'any defect, error or misdescription in the enforcement notice'. These powers extend to the correction of the plan (if there is one) which may accompany the notice.
8. From the evidence available to me, which includes the application form and application drawings submitted in respect of the 2021 application scheme, I am satisfied that the Council's 'corrected' plan accurately reflects that submitted as a site location plan at that time. That was the basis of the application which sought planning permission retrospectively for the alleged unauthorised garage extension, for which appropriate notice was served.
9. Whilst noting the appellant's submission in respect of the appeal under ground (b), which I turn to in more detail below, I am satisfied that accepting the revised 'corrected' plan lies squarely within the provisions set out by s176(1)(a) of the Act for the correction of 'any defect, error or misdescription in the enforcement notice'. I am also satisfied that in having canvassed the views of both main parties regarding this matter that neither would be prejudiced by my doing so. Accordingly, I can correct the notice without causing an injustice.

The appeal on ground (b)

10. The appeal on ground (b) was made on the basis that the garage extension was not within the confines of the area of land identified by the notice, not that it had not occurred. Having regard to the preliminary matters set out above, I am satisfied that the notice may be corrected by virtue of substituting the plan attached to it. For the reasons set out above, there would be no injustice in doing so.
11. It was clear during my visit to the site that the breach of planning control set out in the notice has, at least in part, occurred. The retained elements of the pre-existing attached single garage were visible, around which a wall to single storey height had been constructed. This wall followed the back edge of the

path in the manner shown on the plans submitted in respect of the 2021 application scheme, kicking out to create a further projecting element, the roof of which remains unfinished.

12. Although the structure remains unfinished in the manner set out, I am satisfied that what has been built thus far can reasonably be understood as that which the notice seeks to attack. I am also satisfied that what has been built is that for which planning permission was sought in the 2021 application. For these reasons, the appeal on ground (b) fails.

The appeal on ground (a)

Main Issues

13. The main issues are the effects of the garage side extension upon:
- The character and appearance of the surrounding area; and
 - Highway and pedestrian safety.

Reasons

Character and appearance

14. The residential development of Lowry Road (and Hogarth Road leading to it) is comprised of short, terraced blocks of two storey properties, some of which terminate at right angles to Lowry Road. The appeal property, like those within its small cul-de-sac, has a small forecourt area to the front. Other terraced blocks of properties have larger, albeit still modest, front gardens and short driveways. Where houses are set at 90° to the carriageway, they are typically set back from the pavement edge with either small open areas or behind garden walls.
15. The appeal property, a modest two-storey end-of-terrace dwelling whose plot turns the corner between two short residential culs-de-sac, previously had an attached single garage set back from its front corner towards the rear of its gable elevation. A consistent trait of end-of-terrace properties within the cul-de-sac is for a set back side element. Some are two storey, others such as the appeal property, single storey. All, however, are modest side elements and well-proportioned in relation to the main house.
16. The land to the front and side of the house and garage is comprised of a small forecourt area and driveway. Together with the heavy set back of the garage, and prior to the extension of the garage, a reasonably open feel would have been retained at the appeal property. This would have been generally consistent with the prevailing pattern of mostly open-plan property frontages, creating a sense of openness that is evident across the development by virtue of largely open-plan frontages, gable walls of houses set back from the pavement edge and wide shared surface access and parking areas.
17. The walls of the unauthorised garage extension are built directly to the rear of the footpath, forming an abrupt and hard boundary with the pavement. The rear portion of the extension, which projects further sideways again, continues around the corner at the head of the cul-de-sac and extends the hard boundary of the extension incongruously and harmfully further into the Lowry Road street vista.

18. Although this element of the building would have a lower roofline than that of the main portion of the garage extension, as shown on the plans previously considered at appeal, its width and siting within the street result in a disruptive and incongruous addition to the appeal property and one which significantly compromises the generally open-plan form and character of Lowry Road. Even in the partially completed form that I observed during my visit to the site, the structure is an incongruously stark and uncharacteristic feature which harms the openness of the east/west vista along Lowry Road.
19. Like the single garage it has subsumed, the extended garage is set back significantly from the front corner of the house, constructed of matching facing bricks and its roof would not exceed the height of the existing structure's roof ridge. However, its additional width results in an incongruously wide extension that would disrupt the prevailing pattern of development, built form and proportions of end-of-terrace properties within the Lowry Road development. The aforementioned factors do not however negate the harm I have identified that arises from the incongruous nature of the extension's scale, form, siting and intrusion into the wider streetscene.
20. For the reasons I have set out, I consider the Council's reason for issuing the notice in respect of the extension's effect on character and appearance to be well-founded. The garage is in conflict with the aims and provisions of Core Strategy (2010) (CS) Policy CP3, 'Borough Wide Development Policies Development Plan Document' (DPD) (2011) Policies BP8 and BP11 and the guidance and advice set out in the 'Residential Extensions and Alterations' Supplementary Planning Document (SPD) (2012) and London Plan (2021) policy D4.
21. Together, these set out the Council's expectation that all development proposals will be expected to achieve high standards of design and layout, the importance of having regard to, amongst other things, local character, identity and layout noting the sensitivity of side extensions on corner plots. As such, they are consistent with the provisions of the National Planning Policy Framework (the Framework) which recognises the importance of creating high quality and beautiful buildings and places as being fundamental to what the development and planning process should achieve.
22. The reason for issuing the notice in respect of this main issue also cites Policies SP4, DM11 and DM16 of the Draft Local Plan (DLP) (Regulation 18 Consultation version November 2019). As these are referred to as being in draft form and I have not been provided with an updated position regarding its status, the weight that I give to the provisions of these policies is limited, but does not alter my conclusions above in respect of this matter or the weight I give to the other cited policies.

Highway and pedestrian safety

23. The Council consider that the extension's siting compromises visibility for pedestrians and car drivers when entering and exiting the cul-de-sac to the side of the appeal property. However, neither party provides much in the way of justification or support for their respective positions regarding the effect of the extension on highway and pedestrian safety.
24. Despite the extension's substantial set back from the front corner of the house, its positioning and alignment relative to the cul-de-sac at the side of the house

nevertheless erodes the field of vision for pedestrians watching for moving vehicles, and for drivers of manoeuvring vehicles watching for pedestrians. I have considered carefully the comments of a neighbour, concerned that the proximity of the garage extension to the corner, and to adjacent parking spaces, compromises the safety of those, particularly children, who may play on and around the culs-de-sac at the end of Lowry Road. However, visibility is otherwise generally good into the cul-de-sac along an otherwise straight stretch of Lowry Road whilst the nature of the cul-de-sac's shared space layout and its contrasting surface materials are such that pedestrians and drivers should be aware of their immediate environment and speeds would generally be low.

25. Thus, with regard to highway and pedestrian safety, I am not persuaded that the garage extension causes material harm sufficient to justify the service of the notice on these grounds. As a consequence, there is no material conflict with the aims and provisions of Core Strategy Policy CP3, DPD Policy BP11 and the SPD which together, set out the Council's approach to ensuring high quality and safe development, with particular regard to highway and pedestrian safety. Nor does the extension conflict with the aims and provisions of the Framework with regard to its approach to highways matters, stating that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. For the reasons I have set out, I am not persuaded that this harm has been demonstrated.
26. For reasons already stated, I give limited weight to the provisions of DLP Policies SP4, DM11 and DM16, whilst London Plan Policy D4 and DPD Policy BP8 are not of direct relevance to development of the nature set out in the notice and have not therefore been determinative in this matter.

Conclusion on ground (a)

27. Whilst I have found no harm in respect of highway and pedestrian safety, the garage extension would cause harm to the character and appearance of the surrounding area in the terms set out above. The appeal on ground (a) therefore fails.

The appeal on ground (g)

28. In response to the appellant's appeal under ground (g), for the extension of the notice's compliance period from 6 months to 18 months, the Council appear open to the possibility of a longer compliance period provided that a 'reasonable' request is made. It is not clear however whether the Council consider the appellant's stated reasons under ground (g) to be reasonable.
29. I accept that there will inevitably be a degree of 'lag' in putting in place the necessary conditions in which to carry out works required by a notice. The coordination of raising finance, appointing contractors and the carrying out of works can be time-consuming and difficult. However, the appellant has provided only the briefest of reasoning for a longer compliance period which is insufficient to persuade me that 6 months is not a reasonable period of time in which to make such arrangements.
30. Notwithstanding the Council's somewhat noncommittal stance, to continue to allow the perpetuation of the harm I have identified in relation to character and

appearance for a significantly longer period than the 6 months set out in the notice would not be appropriate. The appeal on ground (g) therefore fails.

Other Matters

31. A neighbour to the appeal site has raised a number of other concerns in relation to the appeal property. Matters referred to include a brick porch and brick-built garden boundary wall and a new entrance to the rear garden. However, as these are not matters alleged within the notice I have not considered these further. Other matters, such as access to land during the construction phase and use of the extension are private matters between the parties involved and are not therefore material considerations in relation to this appeal.

Conclusion

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

G Robbie

INSPECTOR



Plan

This is the plan referred to in my decision dated: 24 April 2023

by G Robbie BA(Hons) BPI MRTPI

Land at: 45 Lowry Road, Dagenham RM8 2NL

Reference: APP/Z5060/C/22/3297801

Scale: Not to scale

Site Plan:

