



Appeal Decision

Site visit made on 16 May 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2023

Appeal Ref: APP/Z5060/D/22/3306726

14 Thornhill Gardens, Barking IG11 9TX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr A Amin against the decision of the Council for the London Borough of Barking and Dagenham Council.
 - The application Ref 22/01189/PRIEXT, dated 7 July 2022, was refused by notice dated 16 August 2022.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is allowed, and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for a single storey rear extension at 14 Thornhill Gardens, Barking IG11 9TX in accordance with the application 22/01189/PRIEXT, dated 7 June 2022, and the details submitted with it including drawing numbers JND/1223/12; JND/1223/13; JND/1223/14 and JND/1223/15 pursuant to Article 3(1) and Schedule 2, Part 1, Paragraph A.4(2).

Preliminary Matters

2. The provisions of the GPDO as amended, under Article 3(1) and Schedule 2, Part 1, Class A, Part A.4(7) requires the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The principle of the development is established by the 2015 Order. The prior approval provisions do not require regard to be had to the development plan. I have therefore only had regard to the policies of the development plan in so far as they are material to the matters for which prior approval is sought.
4. The Council refer to the emerging London Borough of Barking and Dagenham Draft Local Plan 2037 (Regulation 19 Consultation version, September 2020). The Examination has concluded, and the Council are awaiting the Inspector's report. However, I have little information to suggest when the plan is likely to be adopted, if any policies have been modified, or if there are any unresolved objections. Accordingly, I attribute limited weight to the Draft Local Plan (DLP).

Main Issue

5. The main issue is the impact of the proposed development on the living conditions of adjoining neighbours with regard to light and outlook.

Reasons

6. The appeal site consists of a two-storey terrace dwellinghouse located on the southwestern side of Thornhill Gardens in Barking. The proposed single storey rear extension would extend beyond the rear wall by approximately 6.00m across the full width of the host property, to a maximum height of approximately 3.00m with an eaves height of approximately 2.80m.
7. There are a significant number of other rear extensions and various large outbuildings on neighbouring properties in the vicinity. As such, there is a varied character with differences in the design of extensions with a noticeable lack of coherence or symmetry. Both the neighbouring properties at Nos 12 and 16 Thornhill Gardens have been extended at the rear with single storey projections. No 10 Thornhill Gardens has also been extended to a similar depth to the appeal proposal utilising the prior approval process¹. In issuing prior approval at No 10, the Council considered that the proposal would not unacceptably impact on the living conditions of the neighbour at No 12 in respect to daylight, sunlight, outlook and privacy, despite adjoining the shared boundary.
8. In regard to the effect on No 12 from the proposed scheme, this property has an existing single storey rear conservatory. There is no conclusive evidence that this serves a habitable room, however I have adopted a precautionary approach in respect of its usage. The Councils Residential Extensions and Alterations Supplementary Planning Document (SPD) highlights that single storey rear extensions should not normally exceed 3.65m from the original rear wall of the dwellinghouse, in order to ensure that there is no material loss of daylight and outlook to neighbouring properties. At approximately 6.00m in depth the proposal would significantly exceed this tolerance.
9. I have not been provided with any daylight/sunlight report nor any assessment in accordance with the British Research Establishment (BRE) tests on light. However, given the lightweight and glazed construction of the conservatory this would provide significant light into any habitable room at the ground floor of No 12. Furthermore, the glazed openings have direct views over the garden, albeit there would also be views of the proposed extension.
10. From my site observations, given the orientation of the properties, the course of the sun, and therefore the direction of shadowing, the impact on sunlight as a result of the extension on No 12 would be experienced mainly in the afternoons. However, the significantly glazed nature of the existing conservatory at this property, would allow a good degree of light to enter any habitable rooms at ground floor level. Even without more detailed BRE tests, I am satisfied that the proposal would maintain a reasonable relationship with this adjacent property and not lead to excessive loss of daylight and sunlight.
11. The appeal proposal would nevertheless increase the extent of the built form closest to the party boundary. However, the proposed flat roof design means that overall, the appeal proposal's height, scale and bulk would not be of a

¹ London Borough of Barking and Dagenham Planning Ref: 19/00334/PRIOR6

level which would give rise to any significant additional overbearing effect. In respect to outlook the proposal would not create an undue sense of enclosure relative to the rear openings at No 12 or its garden area, particularly given its similarities to the approved scheme at No 10. Neither would its overall presence significantly reduce the current aspect enjoyed by those occupants to an extent that would be overbearing given the existing boundary wall between the appeal site and this property.

12. With regard to No 16, this has been recently extended at ground floor level with windows facing down the garden. The appeal property's proposed extension would project slightly beyond the extent of that adjoining extension at No 16 by approximately 3.00m, which is less than the 3.65m tolerance as stated in the Councils SPD. Whilst the appeal proposal would increase the extent of the built form along the party boundary, it is not considered to provide significant additional overshadowing, nor an overbearing impact or loss of outlook.
13. Based on the individual circumstances of the scheme, the proposed development would not unacceptably harm the living conditions of the occupiers of the adjoining premises. As a result, the proposed development would comply with the provisions of Schedule 2, Part 1, Class A, paragraph A.4(7) of the GPDO and would not be contrary to the amenity protection aims of policies BP8 and BP11 of the Barking and Dagenham Borough Wide Development Policies Development Plan Document adopted March 2011. Nor would it be contrary to policies DMD1 and DMD6 of the DLP or the SPD in so far as they relate to amenity impacts on neighbours.

Other Matters

14. In forming a decision, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The appellant has indicated that personal circumstances have led to the need for the development and this particular form of accommodation. It does not follow from the PSED that the appeal should automatically succeed, but these have been considered when assessing matters.
15. Interested parties have raised concerns in respect to the cumulative impact of recent developments and the current proposal on the existing structural conditions and foundations. However, these matters are not relevant in determining whether the proposal would be permitted by Schedule 2, Part 1, Class A of the GPDO. As such, I have apportioned this no weight.

Conditions

16. Any planning permission granted under Article 3(1) and Schedule 2, Part 1, Class A is subject to the conditions in sections A.3 and A.4. This includes the requirement for the exterior materials to be similar to those used in the construction of the exterior of the existing dwellinghouse and that the development is carried out in accordance with the details and plans submitted as part of the application to the local planning authority. No further conditions are necessary.

Conclusion

17. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed, and prior approval should be granted.

Robert Naylor

INSPECTOR