



Appeal Decision

Site visit made on 19 June 2023

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 13 July 2023

Appeal Ref: APP/Z5060/D/23/3314020

104 Lyndhurst Gardens, Barking and Dagenham, Barking IG11 9XZ

- 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 Iftikhar Zikria against the decision of the Council of the London Borough of Barking and Dagenham.
- The application Ref 22/01692/HSE, dated 9 October 2022, was refused by notice dated 7 December 2022.
- The development proposed is construction of a balcony wall on 2nd floor facing garden over flat roof.

Decision

1. The appeal is allowed and planning permission is granted for construction of a balcony wall on 2nd floor facing garden over flat roof at 104 Lyndhurst Gardens, Barking and Dagenham, Barking IG11 9XZ in accordance with the terms of the application, Ref 22/01692/HSE, dated 9 October 2022, and the plans submitted with it, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan dated 9 June 2020, Proposed Rear Elevation received on 5 December 2022, Proposed Left Side and Right Side Elevations received on 5 December 2022, Proposed Roof Plan received on 5 December 2022, Proposed Roof Plan, Floor Plan and Elevations received on 5 December 2022 and Proposed Rear Elevation Showing Metal Railing Design received on 6 December 2022.
 3. The development hereby permitted shall not be occupied until the privacy screens to the side elevations of the balcony hereby permitted have been constructed in accordance with details shown on the submitted drawings. The privacy screens shall thereafter be retained.

Preliminary Matters

2. The Council indicates that there is an open enforcement investigation against the site for constructing a balcony. An appeal against an enforcement notice is not before me. I have considered this appeal solely on the basis of the planning application refusal.
3. The reason for refusal refers to conflict with policies in the London Borough of Barking and Dagenham's Draft Local Plan (Regulation 19 Submission Version, December 2021) (Draft Local Plan). While the Council has advised that the Draft Local Plan is in an advance stage of preparation, no details or evidence

regarding the current status of these policies has been provided. I cannot be sure that these policies are not subject to further possible amendment. I therefore afford these policies limited weight in this case, focussing on those policies within Barking and Dagenham Core Strategy, adopted July 2010 (CS) and the Barking and Dagenham Borough Wide Development Policies Development Plan Document, adopted March 2011 (DPD).

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal property is a two-storey terraced house with loft conversion and rear dormer. To the rear, the property has a large single and two-storey extension and a good-sized garden. The dormer has patio type doors which open onto the flat roof of the extension. The surrounding neighbouring rear area is a mix of mainly single storey extensions, gardens and various sheds/garden structures.
6. The proposed balcony would be located on the flat roof of the rear extension and would be accessed from the dormer. It would have a front black iron railing and high obscured glazed side privacy screens.
7. The proposed balcony would not be visible from any public vantage points but would be viewed, due to its elevated height, to varying degrees from some of the surrounding neighbouring properties and gardens. Nevertheless, when taken in the context of the existing large rear extension and the distance from nearby properties and gardens, with its small size and good set back from the edge of the flat roof, the proposal would not appear overly prominent or an incongruous feature on the property.
8. Although balconies are not a characteristic of the area, in this particular case, given its minimal visual impact it would not unacceptably harm the character and appearance of the area.
9. Accordingly, the proposal would not be contrary to Policy CP3 of the CS, Policies BP8 and BP11 of the DPD and the guidance and advice set out in the 'Residential Extensions and Alterations' Supplementary Planning Document 2012 or Policy D4 of the London Plan 2021. Together, these seek, amongst other matters, for development to be to a high-quality design which protects or enhances the character of the area.

Other Matters

10. A representation has been made regarding potential overlooking of neighbouring gardens from the proposal. The Council has not raised this as an issue, and on review I concur with this view.

Conditions

11. The Council has suggested a number of conditions. For certainty I have imposed the standard time and compliance with the approved plans conditions. As the approved plans detail the glazing and railing materials to be used on the balcony, I have not included a condition that materials should match those used in the existing building. In the interest of neighbours' living conditions, I

have imposed a condition for the provision of the privacy screens prior to use of the balcony and their retention thereafter.

Conclusion

12. For the reasons given above I conclude that the appeal should be allowed.

J Symmons

INSPECTOR