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## Appeal Decisions

Site visit made on 6 February 2024

**by R Satheesan BSc PGCert MSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 February 2024**

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### **Appeal A Ref: APP/B5480/C/23/3327177**

#### **61 Colne Drive, Romford RM3 9LA**

- 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 Jagdish Gohil against an enforcement notice issued by the Council of the London Borough of Havering.
  - The enforcement notice was issued on 12 July 2023.
  - The breach of planning control as alleged in the notice is without planning permission, the construction of a single storey rear extension.
  - The requirements of the notice are:
    - (i) Demolish to ground level the single storey rear extension; OR
    - (ii) Reduce the maximum depth of the rear extension, as measured externally, to no more than three metres at any point and reduce the maximum height of the rear extension, as measured externally, to no more than three metres to the eaves and four metres at its maximum height; AND
    - (iii) Remove all debris, rubbish or other materials accumulated as a result of taking step (i) or (ii) above.
  - The period for compliance with the requirements is 3 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/23/3327077**

#### **61 Colne Drive, Romford, Essex RM3 9LA**

- 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 Jagdish Gohil against the decision of the Council of the London Borough of Havering.
  - The application Ref: P1955.22, dated 30 November 2022, was refused by notice dated 10 July 2023.
  - The development proposed is described as "Extension at the back of the house and porch at the front of the house."
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## **Decisions**

### **Appeal A:**

1. It is directed that the enforcement notice be:
  - Varied by deleting the words "3 months" within section 6 (time for compliance) and its replacement with "7 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.

### **Appeal B:**

3. The appeal is dismissed.

### **Procedural Matters**

4. For Appeal B, the description of the proposed development also refers to a porch at the front of the property. However, this does not feature within the Council's decision notice, officers report or appeal statement. Similarly, the appellant's appeal statement does not refer to a front porch, and there is no proposed front elevation showing the porch. Therefore, I have determined appeal solely on the single storey rear extension.
5. For Appeal B, there is a discrepancy on the drawing no A04, which attempts to show the existing appeal property and single storey rear extension as built. However, the rear elevation shows the extension with a flat roof whereas the side elevations shows the extension with a sloping roof. Given that the existing rear extension has been built with a sloping roof I have determined both appeals A and B on this basis.
6. As set out above there are two appeals on this site. The appeal on Ground (a) is that planning permission should be granted for the matters stated in the notice. Since the planning appeal (Appeal B) is against the refusal of permission for the same development, the considerations in that appeal are the same, and I have treated both cases together to avoid duplication, except where otherwise indicated.

### **Ground (a) appeal and the Deemed Planning Application (DPA), and Appeal B**

#### **Main Issues**

7. The main issues are the effect of the development upon:
  - the character and appearance of the host building and area; and
  - the living conditions for the neighbouring occupiers of No 63 Colne Drive, with particular regard to outlook.

#### **Reasons**

##### *Character and appearance*

8. The appeal site is characterised predominantly by small groups of terraced properties. The appeal terrace itself is set back from the road behind grassed verge lined with trees which gives the area a pleasant and verdant character.
9. Both appeals relate to the erection of a single storey sloping roof rear extension. For terraced properties, the Council's Residential Extensions and Alterations Supplementary Planning Document, 2011 (SPD) advises in order to ensure that extensions are subordinate to the original dwelling, as a general rule, houses can be extended from the rear wall of the original dwelling by up to 3 metres in depth, and any greater depth should be within an angle of 45 degrees, taken from the 3 metre on the property boundary. Whilst the

Council's SPD is guidance only, its emphasis on good design is consistent with National Planning Policy Framework, 2023 (the Framework).

10. The material of the extension matches the existing building, and that the extension is set back from the side boundary with No 63. Nevertheless, the rear extension far exceeds the 3 metres recommendation of the SPD, and in combination with the overall height of the extension, extends the building considerably, such that the rear extension is not a subordinate to the original building. In this regard, the excessive size and height of the rear extension introduces an overly dominant and visually discordant feature, which fails to harmonise with the host building and the area. Whilst a single storey rear extension exists at no 59 Colne Drive, that extension is lower and does not justify the development before me.
11. Therefore, the development has a harmful effect upon the character and appearance of the host building and the area. Accordingly, the development is contrary to Policy 26 of the Havering Local Plan 2016 – 2031, adopted in 2021 (LP), which amongst other things states that the Council will promote high quality design that contributes to the creation of successful places in Havering by supporting development proposals that are of a high architectural quality and design.

*Living conditions for the neighbouring occupiers of No 63 Colne Drive - outlook*

12. The Council's SPD advises that for terraced properties, any extension which projects more than 3 metres in depth, should be within an angle of 45 degrees, taken from the 3 metres dimension on the property boundary, in order to ensure a reasonable level of amenity is afforded to neighbouring properties. However, contrary to the above guidance the unauthorised extension as built, extends beyond this and therefore does not accord with this guidance.
13. Despite the setback of the extension away from the shared boundary and ground floor window at No 63, the height of the extension rises well above the existing boundary treatment, which has resulted in a large expanse of the flank wall of the extension, built close to the boundary with No 63. As a result, the unauthorised extension appears as a dominant feature in the outlook from the rear garden of this neighbouring property. In this respect the rear extension creates an increased sense of enclosure to the neighbouring occupiers of No 63, which harms their living conditions.
14. Therefore, the development fails to provide acceptable living conditions for occupiers of No 63 Colne Drive, with regard to outlook. Accordingly, the development is contrary to Policy 7 of the LP, which amongst other things states that to protect the amenity of existing and future residents the Council will support developments that do not result in: i. Unacceptable overlooking or loss of privacy or outlook.

**Conclusion on Ground (a), the DPA and Appeal B**

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development harms the character and appearance of the building and area, and the living conditions of neighbouring occupiers with regard to outlook, in conflict with the development plan taken as a whole. None of the other matters raised by the appellant,

including the retention of sufficient garden space, outweighs this harm. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.

16. For the reasons given and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail, and the DPA and Appeal B should be refused.

### **Appeal A: The Appeal on Ground (g)**

17. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 3 to 9 months, to raise funds, appoint a contractor and carry out the remedial works.

18. The time for completing the requirements should be what is reasonably considered necessary to complete the requirements. There is nothing before to suggest that the work is overly complex. Nevertheless, in my view, 7 months would strike a more reasonable and proportionate balance to carry out the remedial works. I shall therefore extend the period from 3 to 7 months.

19. To this extent, the ground (g) appeal succeeds, and I will vary the notice accordingly.

### **Conclusions**

20. **Appeal A:** For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
21. **Appeal B:** For the reasons given above, and having regard to all other matters raised, I conclude that Appeal B should be dismissed.

*R Satheesan*

INSPECTOR

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