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Working in partnership with



Appendix 2

Performance Review Sub-Committee



Appeal Decision

Site visit made on 2 July 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2020

Appeal Ref: APP/Z5060/D/19/3241932

40 Julia Gardens, Barking IG11 0UJ

- 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 Palmer against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/01254/FUL, dated 25 July 2019, was refused by notice dated 20 September 2019.
 - The development proposed is the erection of an ancillary granny annexe.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an ancillary granny annexe at 40 Julia Gardens, Barking IG11 0UJ, in accordance with the terms of the application, 19/01254/FUL, dated 25 July 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: MPSDV3/01b; MPSDV3/02b; MPSDV3/03b; MPSDV3/04b; MPSDV3/05b; Planning Statement (July 2019).
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be in accordance with those set out at paragraph 41 of the approved Planning Statement and as illustrated upon approved plan MPSDV3/04b.
 - 4) The building hereby permitted shall only be used for purposes ancillary to the use of the dwellinghouse and shall not be used as an independent unit of accommodation.

Main Issue

2. The main issue is whether or not a suitably located form of development is proposed, including consideration of whether or not the proposed ancillary use has been satisfactorily demonstrated.

Reasons

3. Paragraph 5.7.3(a) of the Residential Extensions and Alterations Supplementary Planning Document (February 2012) (the SPD) sets out that an outbuilding's use should be ancillary or related to the use of the main dwelling

and that any unrelated use will normally be refused. Indeed, were the proposal that is before me to amount to a new self-contained unit of residential accommodation, it would be anticipated to have a harmful effect upon both the character of the area and the living conditions of existing and future occupants at the site. However, the scheme before me is for an ancillary annexe that is earmarked for future occupation by the appellant's elderly mother and I shall consider the proposal from this starting point.

4. It is apparent that a single storey building of modest proportions is proposed. Indeed, the intended floor plan illustrates that merely a single bedroom, a shower room and a lounge area would be provided internally. On this basis any future occupier of the annexe would be reliant upon the host property for kitchen and utility facilities. Furthermore, it is evident that the site's access and external areas would be shared and it has been confirmed that no separate address is to be created and that services would not be independently metered.
5. Whilst the proposed annexe would be situated to the rear of the site and thus physically separate from the main house, it would not be remotely positioned. Indeed, only a short distance on foot would need to be negotiated in order to access the main dwelling from the annexe and vice versa. I also see merit in the appellant's argument that the annexe's proposed siting makes the most efficient use of the site's existing garden area and would be in keeping with the position of other outbuildings in the vicinity. I am satisfied that the annexe would not cause harm to the character and appearance of the area or to the living conditions of neighbouring residential occupiers through, for example, unacceptable overlooking or overshadowing.
6. The proposal represents a suitably located form of development and it has been satisfactorily demonstrated that the annexe would be used in an ancillary capacity linked to the existing main dwelling. The proposal accords with Policies BP8 and BP11 of the Borough Wide Development Policies (March 2011) and with the SPD in so far as these policies and guidance require all development to have regard to the local character of the area and to maintain residential amenity. The proposed development accords with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conditions

7. In the interests of certainty, a condition specifying the approved plans and documents is required. In the interests of protecting the character and appearance of the area, a condition is reasonable and necessary that requires the external surfaces of the building to be constructed in accordance with the details that have been indicated. A planning condition confirming that the approved building is to be used only for purposes ancillary to the use of the existing dwellinghouse is also required. This would be in the interests of ensuring that a suitable form of development is indeed brought forward and retained in perpetuity.

Conclusion

8. For the above reasons, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR



Appeal Decision

Site visit made on 2 September 2020

by David Wallis BSc (HONS) PG DipEP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th September 2020

Appeal Ref: APP/Z5060/W/20/3247697

114 Arnold Road, Dagenham RM9 6AW

- 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 Ardian Elezi against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/01534/FUL, dated 27 September 2019, was refused by notice dated 3 February 2020.
 - The development proposed is the construction of two-bedroom end-of-terrace house.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of two-bedroom end-of-terrace house at 114 Arnold Road, Dagenham RM9 6AW in accordance with the terms of the application, Ref 19/01534/FUL, dated 27 September 2019, and the plans submitted with it, 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 shall be carried out in accordance with the following approved plans: 19/9/2 Revision A.

Main Issue

2. The main issue for the appeal is the effect of the development on the character and appearance of the area.

Reasons

3. The Becontree Estate is a distinctively dense urban environment, comprising predominantly of terraced residential dwellings in a strong linear pattern of development. The planned nature of the estate includes variously sized plots of green space at the junctions and corners of the public highways, providing visual relief from the urban layout, with some enclosed by low metal fencing, containing small trees or laid to lawn. I noted from my visit that some of the green spaces were either missing (for example, where Arnold Road meets Comyns Road) or enclosed by fencing (for example, where Dagenham Avenue meets Talbot Road) where they form part of a property's own private garden.
4. The appeal site sits on the junction of Arnold Road with Downing Road, with the host property of No 114 Arnold Road being an end-of-terrace property with a large privately-owned side garden. No 114, much like the No 98 Arnold Road at

the opposite end of the same terrace of dwellings, has painted brickwork. The side private garden for No 114 constitutes part of the green space at the road junction, seen in the context of a comparably sized green strip to the south and a square of green space to the west on Downing Road.

5. The proposed dwelling would represent the continuation of the existing terrace as it would be of a height, proportion and span commensurate with the existing dwellings and would not, in itself, appear alien or discordant with the street scene. It would change the overall composition and symmetry of the host terrace by adding another property of painted brickwork. However, I noted from my visit that there is already deviation from the symmetry with No 98 having a front porch extension and there is different spacing for the chimneys across the terrace as a whole. Since the proposal would adjoin one terrace only, the design and appearance of neighbouring terraces would not be compromised or disrupted in any way. The overall visual effect of the proposed development on the built environment would not, therefore, be significantly harmful.
6. The proposal dwelling would see the loss of a proportion of the green space down the flank of No 114, although I acknowledge that the space constitutes private garden as opposed to a 'general amenity green'. However, the proposal would retain a front lawn area including retention of the existing boundary hedgerow, thus maintaining a green space directly on the corner of the road junction. Whilst this would be a much smaller space than at present, when compared to other green spaces within the estate wherein there is much variance as to the size and quality of the green spaces, it would not appear uncharacteristic or notably at odds with the pattern of development in general.
7. On this basis, the features that form the prevailing character of the Becontree Estate would be retained and, as such, the proposal would not harm the sense of place within this locally important area. The proposal would not therefore conflict with policy BP2 of the Borough Wide Development Plan Policies Development Plan Document (the Development Plan), which seeks the preservation and enhancement of locally distinctive features. Furthermore, the proposal would not conflict with the objectives of policies BP8 or BP11 of the Development Plan, which require developments to have regard to local character and amenity.

Conditions

8. I have imposed conditions regarding commencement and implementation in accordance with relevant plans for certainty as to the development hereby permitted. In light of no further suggestions from the Council and, having considered the merits of the case, I conclude that no further conditions are required.

Conclusion

9. For the reasons given above, I allow the appeal.

David Wallis

INSPECTOR



Appeal Decision

Site visit made on 15 September 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2020

Appeal Ref: APP/Z5060/H/20/3246667

Land immediately south of 678 Rainham Road South, Dagenham, London RM10 8YT

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against conditions imposed when granting express consent.
 - The appeal is made by Mr Ben Porte against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/01808/ADV, dated 31 October 2019 was approved on 7 February 2020 and advertisement consent granted subject to conditions.
 - The advertisement permitted is 'Removal of gable wall mounted 48-sheet poster advertisement and erection of freestanding internally illuminated 48-sheet digital display on adjacent amenity green.'
 - The condition in dispute No 1 which states: This consent shall expire at the end of a period of 5 years beginning with the date of this decision notice, after which the advertisement hereby approved shall be removed.
 - The reason given for the condition is: To comply with the requirements of Regulation 14(7) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
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Decision

1. The appeal is allowed and the advertisement consent Ref 19/01808/ADV for removal of gable wall mounted 48-sheet poster advertisement and erection of freestanding internally illuminated 48-sheet digital display on adjacent amenity green, at Land immediately south of 678 Rainham Road South, Dagenham, London RM10 8YT, granted on 7 February 2020 by the Council of the London Borough of Barking & Dagenham, is varied by deleting Condition No 1.

Background and Main Issue

2. Consent to display an illuminated 48 sheet digital advertisement was granted by the Council subject to a condition that the advertisement shall be removed from the site following the expiry of a period of five years from the date of the decision notice. The appellant disputes the requirement to remove the advertisement after this period.
3. Accordingly, the main issue is whether the condition is necessary having regard to requirements of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (the Regulations).

Reasons

4. The National Planning Practice Guidance (PPG) details that all advertisements, whether they require express consent or not, are subject to the five standard conditions. If a local planning authority decides to impose additional conditions,

these must be supported by specific and relevant planning reasons¹. The PPG specifically states that conditions should never be imposed because the local planning authority wishes, as a matter of general policy, to prevent the operation of Class 14 in Schedule 3 (advertisements displayed after expiry of express consent) in their area. In other words, conditions should not be imposed to routinely remove the deemed consent advertisements displayed after the expiry of express consent otherwise have under Class 14 of Schedule 3 to the Regulations.

5. The Council's case, in essence, is that development may take place within the immediate vicinity within five years which would represent a material change in circumstances. Specific reference is made to redevelopment of the adjacent former Old Dagenham Methodist Church, and to a potential effect on the amenity of future occupants of the development. However, in granting express consent, the Council was satisfied that the advertisement would be acceptable in the interests of amenity and public safety, as evidenced in the Officer Report, where no reference was made to any impact on neighbouring properties, nor was any mention made of a planning permission granted on the adjacent site. Moreover, the evidence does not indicate whether a permission exists or what form any development may take. The Council's own comments at the appeal stage that the advertisement 'may affect the amenity of neighbouring occupiers' (my emphasis) indicates to me that no specific planning harm has been identified as required by the PPG and the imposition of the condition is therefore unwarranted.
6. This aside, the Council has the power under the Regulations to serve a discontinuance notice in relation to the display of the advertisement if, at any time following the expiry of the express consent, it is found to cause substantial injury to the amenity of the area. This process would address actual harm at the time, rather than the perceived and unsubstantiated harms alleged by the Council in imposing the condition.
7. The appellant suggests the condition should be replaced with one confirming the consent period of five years but omitting the requirement for the advertisement to be removed at the end of this period. Regulation 14(7) states that an express consent shall be subject to the condition that it expires at the end of: (a) such period as the local planning authority may specify in granting the consent; or (b) where no period is so specified, a period of 5 years. As the Council was satisfied that the advertisement was acceptable for the standard five year period, it is not necessary to impose another condition which is already imposed by virtue of Regulation 14(7).
8. For these reasons, I conclude that neither the existing condition nor its proposed variation are necessary or reasonable in the interests of amenity or public safety.

Conclusion

9. The appeal is allowed and the consent is varied to remove Condition No 1.

K Savage INSPECTOR

¹ Paragraph: 034 Reference ID: 18b-034-20140306



Appeal Decision

Site visit made on 15 September 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2020

Appeal Ref: APP/Z5060/D/20/3245035

67 Oval Road North, Dagenham RM10 9EU

- 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 Aurelian Ene against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/01355/FUL, dated 15 August 2019, was refused by notice dated 5 December 2019.
 - The development proposed is a two storey side extension with matching hipped roof.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey side extension with matching hipped roof, at 67 Oval Road North, Dagenham RM10 9EU, in accordance with the terms of application Ref 19/01355/FUL, dated 15 August 2019, 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 shall be carried out in accordance with the following approved plans: P06019 Sheet 01 (Existing and Proposed Site Plans); P06019 Sheet 02 (Existing Plans and Cross Section); P06019 Sheet 03 (Existing Elevations); P06019 Sheet 4 (Proposed Ground Floor Plan); P06019 Sheet 05 (Proposed First Floor Plan); P06019 Sheet 06 (Proposed Roof Plans and Sections); P06019 Sheet 07 (Proposed Elevations).
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issues

2. The main issues are the effects of the proposal on i) the character and appearance of the area, and ii) the living conditions of neighbouring occupants.

Reasons

Character and appearance

3. The appeal site occupies a corner plot with an angled side boundary that widens toward the rear of the site. Given this, there would be sufficient space retained to the side of the proposed extension such that it would not appear

excessive in scale relative to the site, and I note other corner buildings nearby have been extended in a similar manner. The incorporation of a slight setback to the front first floor elevation and roofline would add an element of subservience which would allow the original building to still be read. The use of matching materials and replication of the hipped roof element to the side would complement the existing building and prevailing character of the surroundings.

4. It is relevant that a dwelling has recently been constructed to the rear of the appeal site, standing perpendicular to the original dwelling and facing onto Ballards Road. There is also a freestanding, single storey garage to the rear corner of the site. The proposed extension would close the gap between the original dwelling and the new dwelling; however, viewed from the street, the properties would be clearly read as addressing different streets. There would be garden areas of sufficient size retained for both dwellings, with the side gardens of both providing separation and a sense of openness between them. Accordingly, I find that the proposal would not result in an unacceptable overdevelopment of the site.
5. For these reasons, I conclude that the proposal would preserve the character and appearance of the area, and no conflict would arise with Policies BP8 and BP11 of the Borough Wide Development Policies Development Plan Document (March 2011) (the DPD), which together require high standards of design and layout which respect and strengthen local character.

Living Conditions

6. At my site visit, the rear garden of the original dwelling and the garden of the new dwelling were not physically separate. The approved plans for the new dwelling indicate two separate garden areas are intended, and I saw the nominal garden of the new dwelling to be L-shaped, with a narrow patio to the rear and a wider area proposed to be laid to grass on the southern side, between the dwellings.
7. At present, the gap between the dwellings allows sunlight from the south to reach both rear gardens. The proposed side extension would partly enclose this gap, reducing the amount of sunlight reaching the rear patio of the new dwelling. However, occupants of the new dwelling would still benefit from the larger garden area to the southern side which would continue to receive direct sunlight for a similar amount of time during the day as at present. Sunlight would also still be able to reach the rear patio during the morning and through to the middle part of the day, and there would not be a significant increase in the enclosing effect on the rear patio compared to the current situation.
8. Given the orientation of the rear elevation of the new dwelling, and the existing position of the original dwelling roughly to the south-west, the extension would not have a significant effect on the amount of direct sunlight received by the windows in the rear elevation, and it would not adversely affect occupants' enjoyment of these rooms.
9. The proposed extension would add to the massing next to the garden of the new dwelling; however, this would not demonstrably diminish the quality of the garden given the open aspects which would be retained to the south and east. Windows are proposed in the rear elevation which would afford views over the rear patio of the new dwelling, but which would be similar to views already possible from the existing windows. Moreover, the new windows would be at a

very acute angle to those in the rear elevation of the new dwelling, limiting views into the new dwelling and the likelihood of a loss of privacy for its occupants.

10. For these reasons, I conclude that the proposal would not lead to significant harm to the living conditions of neighbouring occupants, and no conflict would arise with Policies BP8 and BP11 of the DPD, which seek to maintain residential amenity, by expecting new developments not to lead to significant overlooking, loss of privacy, overshadowing or loss of daylight and sunlight.

Conditions

11. In addition to the standard time limit, a condition is required specifying the relevant drawings, to provide certainty. It is also necessary to impose a condition requiring external surface materials to match the existing dwelling in order to secure a satisfactory appearance.

Conclusion

12. For these reasons, I conclude that the proposal would accord with the development plan, taken as a whole. Therefore, the appeal is allowed.

K Savage

INSPECTOR



Appeal Decision

Site visit made on 16 September 2020

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2020

Appeal Ref: APP/Z5060/D/19/3243586

328 Goresbrook Road, Dagenham RM9 6XX

- 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 Ismet Limani against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/01392/FUL, dated 23 August 2019, was refused by notice dated 18 November 2019.
 - The development proposed was originally described as: 'resubmission – proposed double storey side extension'.
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Decision

1. The appeal is allowed, and planning permission is granted for proposed double storey side extension and single storey rear extension at 328 Goresbrook Road, Dagenham RM9 6XX in accordance with application ref: 19/01392/FUL dated 23 August 2019, and subject to the following conditions:
 - 1) The development hereby approved shall commence within 3 years of the date of this approval;
 - 2) The development hereby approved shall be implemented strictly in accordance with drawing numbers: 300, 301 revision A, 302, 303 revision A, 304 and 305 revision A.

Procedural Matters

2. In allowing the appeal, I have amended the description of development by removing the word 'resubmission' and including reference to the single storey rear extension. This is in the interests of precision and because a resubmission is not an act of development, nor is it relevant to my assessment of the appeal.
3. The submitted drawings show the appeal site as having a hipped roof. However, when undertaking my site visit, it was apparent that the hipped roof had been converted to a gable end. Despite this, I am required to determine the proposal on the basis of the evidence before me. I have done this accordingly, and the presence of the hip to gable conversion has had no bearing on my findings in relation to the appeal.

Main Issue

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

Reasons

5. The appeal site is an end of terrace dwelling. When viewed from the road, to the right of the appeal site is another terrace of dwellings. These terraces are separated by a gap between the buildings and the adjacent terrace is set back further from the highway than the appeal site. This staggered arrangement of terraced blocks of housing is a common feature along the road. The houses are consistent in form and appearance, but the terraces are punctuated by small gaps and steps in the building line. These gaps and setbacks provide articulation and uniformity to the street scene and consequently, make a positive contribution to the locality.
6. The proposal would introduce a two storey extension to the side of the existing dwelling. This would have the effect of reducing the space between the appeal building and its adjacent neighbour. However, the first floor element of the proposal would be substantially set back from the front of the house. The extension would also be demonstrably narrow when viewed in the context of the existing building and would introduce a hipped roof with a substantially lower ridge height. The form, mass and scale of the proposed extension would ensure that it would be suitably respectful to the existing building. In addition, due to its slender width, limited ridge height, and generous set back at first floor level, I am satisfied that the proposal would also maintain much of the space between the appeal building and the neighbouring property. In doing this, the proposal would respect and be complementary to the established rhythm found within the street scene.
7. Accordingly, I conclude that the proposal would not harm the character and appearance of the surrounding area. It would therefore comply with Policies BP8 and BP11 of the Borough Wide Development Policies Development Plan Document (2011) as well as advice contained within the Residential Extensions and Alterations Supplementary Planning Document (February 2012). Taken together, these seek amongst other things, sensitive design that responds to local character.

Conclusion

8. In light of my findings set out above, conditions are necessary in the interests of precision to establish the time limit for commencing development, as well as the approved drawings. Subject to these matters, the appeal should be allowed and planning permission be granted.

Martin Chandler

INSPECTOR



Appeal Decision

Site visit made on 21 October 2020

by **N McGurk BSc (Hons) MCD MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 October 2020

Appeal Ref: APP/Z5060/D/20/3254596 194 Downing Road, Dagenham, RM9 6LU

- 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 and Mrs Sutradhar against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 20/00336/FUL, dated 9 March 2020, was refused by notice dated 1 May 2020.
 - The development proposed is a dormer loft conversion.
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Decision

1. The appeal is allowed and planning permission is granted for a dormer loft conversion at 194 Downing Road, Dagenham RM9 6LU in accordance with the terms of the application Ref:20/00336/FUL dated 9 March 2020 and in accordance with the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan:D_19_AL_194DAW_002.

Main Issue

2. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

Procedural Matters

3. The development the subject of this appeal has already taken place.
4. A certificate of lawful use was granted for a dormer loft conversion in 2019¹. The only significant difference between the development the subject of this appeal and the proposal granted a certificate of lawful use is that the development that has taken place sits very slightly above the appeal property's ridge line.
5. Following the development, an enforcement case was opened² and this led to the application corresponding to this appeal.

¹ Ref: 19/00460/CLU-P.

² Ref: 20/00030/NOPERM.

Reasons

6. The appeal property is a mid-terrace dwelling with rooms at roof level. It is located in a residential area characterised by the presence of terraced properties set back from the road behind short parking areas and/or front gardens and with longer gardens to the rear.
7. The setback from the road, along with the use of largely matching building materials and similar design features, affords the area an attractive sense of uniformity.
8. During my site visit, I observed that many houses in the area have been altered and/or extended, especially to the rear and that there are examples of extensions and alterations at ground and at first floor/roof level.
9. The development the subject of this appeal comprises a rear dormer extension. As above, the extension sits very slightly above the roof line. I observed during my site visit that the effect of this is largely imperceptible from the rear. I also noted that the extension is not generally visible from the public highway, although it can be seen from the rear of numerous properties within the context of a garden setting where other alterations and extensions are also visible.
10. In reaching its decision, the Council stated that the appeal property is located in the middle of a terrace where the ridges and eaves of each property "are parallel with each other." However, this is simply not the case.
11. The appeal property sits towards the end of a terraced row, adjacent to an end-terrace property, the ridge and eaves of which are at entirely different levels and which, in stark contrast to the appeal property's sloping roof and mid-roof dormer at first floor level, has a two storey gable end facing directly out towards the street.
12. Further, whilst dwellings to the other side of the appeal property share many characteristics with the appeal property and in so doing, project an attractive degree of uniformity, the height of the ridge line itself differs along the terrace. For example, the overall height of the ridge line falls away from the appeal property to 202 Downing Road.
13. Taking the above into account, I noted during my site visit that the precise height of ridges lends little or nothing to the attractive uniform qualities of the area. Further, given that it adjoins a dwelling with a much taller and an entirely different roof form, the effect of the development in respect of it resulting in a very slight increase in the height of the property is barely, if at all, discernible in general views. The development does not unbalance the uniformity and symmetry of the terrace to any significant degree and further, the development is little different to that granted a certificate of lawful use by the Council in 2019.
14. Taking all of the above into account, I find that the development does not harm the character and appearance of the area and is not contrary to the National Planning Policy Framework; to London Plan (2016) policies 7.4 and 7.6; to DPD³ policies BP8 and BP11; or to the Council's Residential Extensions and Alterations

³ Barking and Dagenham Borough Wide Development Policies Development Plan Document (2011).

Supplementary Planning Document (2012), which together amongst other things, protect local character.

Conditions

15.I have considered the conditions suggested by the Council against the tests set out in Paragraph 55 of the Framework. The development the subject of this appeal has already taken place and consequently, not all of the conditions suggested by the Council are relevant. However, a condition specifying the approved plan is necessary for the avoidance of doubt and in the interests of proper planning.

Conclusion

16.For the reasons given above, the appeal succeeds.

N McGurk

INSPECTOR



Appeal Decision

Site visit made on 21 October 2020

by **N McGurk BSc (Hons) MCD MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 October 2020

Appeal Ref: APP/Z5060/D/20/3252112 131 Third Avenue, Dagenham, RM10 9BD

- 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 Adam Ozigi against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 20/00066/FUL, dated 21 January 2020, was refused by notice dated 12 March 2020.
 - The development proposed is a ground and first floor rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a ground and first floor rear extension at 131 Third Avenue Dagenham, RM10 9BD in accordance with the terms of the application Ref:20/00066/FUL dated 21 January 2020, 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: 131TA/PP/010 Proposed Plans and Elevations; and 131TA/PP/012 Proposed Plans and Elevations.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issues

2. The main issues in this case are the effect of the proposed development on the character and appearance of the area; and its effect on the living conditions of the occupiers of No 133 Third Avenue, with regards to outlook.

Reasons

Character and appearance

3. The appeal property is a two storey end-terrace dwelling. It is located in a residential area characterised by the presence of two storey terraced properties set back from the road behind short parking areas and with long gardens to the rear.
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4. During my site visit, I observed that many houses in the area have been altered and/or extended. In particular, I observed there to be a wide variety of rear extensions, including single and two storey extensions, of varying length, width and volume.
5. I also noted that the long gardens to the rear of Third Avenue back on to other, similarly long gardens to the rear. This provides for a sense of spaciousness and greenery, qualities not reduced to any harmful degree by the presence of extensions and a wide range of outbuildings.
6. The proposed extension would result in a long single storey projection to the rear, with a shorter first floor extension above. Whilst the Council considers the length of the proposed first storey element to be acceptable, it states that the proposed width, across the full width of the appeal property, would be out of character with its surroundings.
7. This is not the case. There are other full width first storey rear extensions in the surrounding area and these existing extensions do not appear out of character, but rather, appear in keeping with the wide range of extensions and alterations common to the area. Further, I consider that the proposed first floor extension would, itself, appear as a neat, subservient and complementary addition to the host property.
8. Whilst the proposed ground floor extension would project some considerable distance from the original rear elevation, when seen together with the first floor extension it would appear neither disproportionate nor out of place. Rather, it would appear in keeping with the surrounding area, where rear extensions project to varying lengths at ground floor level. Further, the length of the appeal property's garden is such that a significant area of open garden land would still remain and the area's green and spacious qualities would remain unharmed.
9. Whilst the proposed ground floor extension would project further than generally advised in the Council's Residential Extensions and Alterations Supplementary Planning Document (2012) (Council's SPD) I consider that, having regard to the above, the proposal respects the host property and appears in keeping with its surroundings.
10. Taking all of the above into account, I find that the development does not harm the character and appearance of the area and is not contrary to the National Planning Policy Framework; to DPD¹ policies BP8 and BP11; or to the Council's SPD, which together amongst other things, protect local character.

Living Conditions

11. The Council is satisfied that the proposed development would not result in any harm to the living conditions of the occupiers of the attached terraced property to the north of the appeal property, No 129 Third Avenue.
12. The neighbouring property to the south, No 133 Third Avenue, is not attached to the appeal property, but is separated from it by a gap which provides for access between the two dwellings.

¹ Barking and Dagenham Borough Wide Development Policies Development Plan Document (2011).

13. During my site visit, I noted that the garden to the rear of No 133 appears long and spacious. Due to this, along with the relatively low height of the majority of the proposal, the gap between the two dwellings and No 133's orientation to the south of the appeal property, the proposed development would have little if any discernible impact in respect of "shadowing the amenity space at No 133," as suggested by the Council. Rather, I find that this neighbouring property's amenity space would remain largely unaffected and no significant harm would arise as a result of the proposal.
14. Taking the above into account, the proposed development would not harm the living conditions of the occupiers of No 133 Third Avenue, with regards to outlook. Consequently, the proposal would not be contrary to the National Planning Policy Framework; to DPD policy BP8; or to the Council's SPD, which together amongst other things, protect residential amenity.

Conditions

15. I have considered the conditions suggested by the Council against the tests set out in Paragraph 55 of the Framework. A condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. A condition requiring materials to match those of the existing house is necessary to protect the character and appearance of the host property and wider area.

Conclusion

16. For the reasons given above, the appeal succeeds.

N McGurk

INSPECTOR



Appeal Decision

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th October 2020

Appeal Ref: APP/Z5060/X/19/3243122

104 Glenny Road, Barking, Essex IG11 8QQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs Kariben veja Odedra against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/01417/CLU_E, dated 22 August 2019, was refused by notice dated 18 November 2019.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is 2 self-contained flats created on 2 July 2015.
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is found to have been lawful on the date that the application was validly made.

Preliminary matters

2. With the consent of the parties, a site visit was not undertaken.
3. The Council's reason for refusing to grant an LDC referred to whether "the outbuilding" had been in use as a self-contained flat for at least 4 years. However, as described in the appellant's evidence and on drawing 455/01, which does not show an outbuilding, the LDC is sought in respect of 2 self-contained flats within the main building.
4. The application states that the flats were created on 2 July 2015. However, the appropriate test is whether the use as 2 self-contained flats began on or before 22 August 2015, 4 years before the date of the application, and has continued since without significant interruption.
5. The Council issued an enforcement notice on 27 November 2019, alleging the unauthorised sub-division of the property into 2 independent units of accommodation. No appeal was lodged against the notice, which came into effect on 27 December 2019 and is thus in force. Because the notice was issued after the LDC application was validly made, it does not prevent consideration of whether the use as 2 self-contained flats was lawful on 22 August 2019, the date of the LDC application. However, and following the decision in *Staffordshire CC v Challinor*¹, my decision on this appeal cannot alter the effect of the enforcement notice, which remains a separate matter.

¹ *Staffordshire CC v Challinor & Robinson* [2007] EWCA Civ 864; [2008] JPL 392

6. Reference is made to the grant of an LDC for 2 self-contained flats in Dagenham² but no details have been provided. However, the facts relating to each application will be different and each must be considered on its merits.

Main Issue

7. The main issue is whether the Council's refusal to issue an LDC was well-founded. This turns on whether the appellant can show, on the balance of probability, that on the application date the property was in use as 2 self-contained flats, and if so whether it had been used as such continuously for a period of 4 years without significant interruption.

Reasons

8. When an LDC is sought, the burden of proof lies with the applicant. In addition, the Planning Practice Guidance states "In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."
9. The date on which the use as 2 self-contained flats began is not agreed. The appellant states that it occurred on 2 July 2015 but no supporting evidence, such as the nature and date of any works that facilitated it, has been provided. However, a former tenant of the first floor flat made a statutory declaration that she lived there on 2 July 2015, when the property had already been converted to 2 flats, each with its own entrance door, kitchen, toilet and bedroom. The copies of her tenancy agreements provided by the appellant, all describing the property in question as "furnished upper flat", cover a period beginning on 15 June 2015. The Council has not provided any evidence to make this statutory declaration less than credible.
10. The appellant indicates that this tenant left, on an unspecified date, before her second tenancy agreement was due to end on 14 June 2018. This suggests the flat would have been vacant for a while, until the current tenants' agreement, again describing the property in question as "furnished upper flat", began on 20 June 2018. However, that is to be expected with turnover of tenants and there is no evidence to suggest it amounted to a significant interruption or that the first floor flat's use as a self-contained unit of accommodation ceased before the new tenancy began.
11. The tenants of the ground floor flat also made a statutory declaration that they lived there on 2 July 2015, when the property had been converted to 2 flats, each with its own entrance door, kitchen, toilet and bedroom. However, the start date in the copy of their first tenancy agreement was 11 August 2015, nearly 6 weeks later. While no explanation has been offered for this, both dates are 4 years before the date of the application, that is 22 August 2019, and while the signatures on the copies provided are undated, these agreements cover a continuous period of more than 4 years, including the date of the application. The Council has not provided any evidence to make this second statutory declaration less than credible.

² 18/00251/CLU_E, 275-277 Oxlow Lane, Dagenham, Essex

12. All the copies of tenancy agreements for the first floor flat contain a special condition stating that the tenant has "the sole use of the downstairs including rear garden". This is inconsistent with the copies of the tenancy agreements for the ground floor flat, all of which describe that property as "furnished ground floor flat and sole use of rear garden" and include the same special condition. While no explanation has been provided, this would appear to be an error because drawing 4355/01, submitted with the application, shows that the first floor flat does not have direct access to the rear garden.
13. The Council indicates there is only one Council Tax entry for the property, which is inconsistent with use as 2 self-contained flats, although a copy of this record has not been provided. Of itself, this evidence does not demonstrate that the use as 2 flats had not begun 4 years before the date of the application or that it has not continued since.
14. The statutory declaration made by the former tenant of the first floor flat is precise and unambiguous and is credible evidence. Even taking account of the Council Tax record and the difference between dates in the ground floor flat tenants' statutory declaration and their tenancy agreement, viewed as a whole, the appellant's evidence is precise and unambiguous. Accordingly, it sufficiently demonstrates that, on the balance of probability, the use of the property as 2 self-contained flats began more than 4 years before the date of the application and continued without significant interruption thereafter until and including the date of the application.

Conclusion

15. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of 2 self-contained flats was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Mark Harbottle

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 22 August 2019 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use of the property as 2 self-contained flats began more than four years before the date of the application and continued thereafter; and

The use does not contravene the requirements of any enforcement notice that was in force on the date the application was made.

Signed

Mark Harbottle

Inspector

Date:

Reference: APP/Z5060/X/19/3243122

First Schedule

The use of the property as 2 self-contained flats

Second Schedule

Land at 104 Glenny Road, Barking, Essex IG11 8QQ

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated:

by Mark Harbottle BSc MRTPI

Land at: 104 Glenny Road, Barking, Essex IG11 8QQ

Reference: APP/Z5060/X/19/3243122

Not to scale





Appeal Decision

Site visit made on 8 December 2020

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31/12/2020

Appeal Ref: APP/Z5060/D/20/3251417 **39 Greatfields Road, Barking, IG11 7UA**

- 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 Naheem against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 20/00185/FUL, dated 13 February 2020, was refused by notice dated 31 March 2020.
 - The development proposed is a first floor rear extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a first floor rear extension at 39 Greatfields Road, Barking, IG11 7UA in accordance with the terms of the application, Ref 20/00185/FUL, dated 13 February 2020, 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 shall be carried out in accordance with the following approved plans: TFK 0601/01; TFK 0601/02; TFK 0601/03; TFK 0601/04; and TFK 0601/05.
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in 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 windows / dormer windows shall be constructed on the side elevations of the extension.

Main Issue

2. The main issue is the effect of the proposed extension on the character and appearance of the host dwelling and the wider terrace.

Reasons

3. The appeal concerns a mid terrace dwelling which is located in a row comprising four properties. The design of the terrace incorporates a distinctive mansard style roof. The surrounding area comprises rows of terraced dwellings of a similar design and appearance.

4. The appeal proposal is a first floor rear extension which would be constructed above an existing single storey rear extension. The proposed extension would be set in from both of the side boundaries with the neighbouring dwellings.
5. The proposed rear extension would have a depth of 3 metres and would be set down from the ridge of the existing dwelling. As such it would appear a subservient addition to the dwelling. The extension would incorporate a pitched roof to match the existing dwelling and it would have a tile finish to match the existing roof. I also note that the window proposed on the extension would align with other windows on the rear elevation. I therefore find that the proposed extension would integrate and harmonise sufficiently with the host dwelling such that it would not be harmful to its character or appearance. The proposed extension would not conflict with the design guidance set out in the Council's Residential Extensions and Alterations Supplementary Planning Document (February 2012) which states that the design of rear extensions should be sympathetic towards the original dwellinghouse. Whilst the SPD is for guidance purposes only, it does nonetheless provide useful advice.
6. I noted at my site visit that the other dwellings within the same terrace have not been extended to the rear at first floor level. However, I have found that the proposed extension would not be harmful to the character and appearance of the host dwelling and I am also satisfied that it would not materially harm the character or appearance of the wider terrace. Moreover, on my site visit I noted several examples of rear extensions on dwellings within adjacent and nearby terraces, where similar additions at first floor level have been constructed.
7. In conclusion, the proposal extension would not have a harmful effect on the character and appearance of the host dwelling, or the wider terrace. I find that it would comply with Policies BP8 and BP11 of the Borough Wide Development Policies Development Plan Document (March 2011) which together require development to be of a high quality design and to respect existing character.

Other matters

8. With regard to other issues raised, the proposed extension would be set in from the side boundaries of the site and given its depth of 3 metres I am satisfied that it would not lead to a significant loss of outlook or overshadowing of adjoining dwellings.

Conditions

9. In addition to the standard 3 years implementation condition, I have imposed a condition requiring the extension to be constructed in matching materials to ensure a satisfactory external appearance. A condition ensuring that no windows are added to the side elevations of the extension is required in order to protect the privacy of occupiers of the adjacent properties. The approved plans condition is imposed for clarity.

Conclusion

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

J Davis

INSPECTOR



Appeal Decision

Site visit made on 24 November 2020

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2021

Appeal Ref: APP/Z5060/W/20/3258276

60 Arden Crescent, Dagenham, RM9 6TP

- 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 Michael Barrett against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 19/01336/FUL, dated 10 August 2019, was refused by notice dated 15 June 2020.
 - The development proposed was originally described as 'Fitting of 4 CCTV cameras recording property grounds. Two of the cameras on the front recording the drive, one of which records 24/7 and the other on Motion Detection mode. A single camera covering the side gate on Motion Detection mode. A single camera covering the garden and outbuilding at back of garden on Motion Detection mode. CCTV is to be recorded on a hard drive for evidence purposes. Connected to WiFi network internally to the house through TP-Link for remote access to all cameras in live mode. Wiring feeds to cameras not exposed externally to house and fed through loft cavity.'
-

Decision

1. The appeal is allowed and planning permission is granted for 'Fitting of 4 CCTV cameras recording property grounds. Two of the cameras on the front recording the drive, one of which records 24/7 and the other on Motion Detection mode. A single camera covering the side gate on Motion Detection mode. A single camera covering the garden and outbuilding at back of garden on Motion Detection mode. CCTV is to be recorded on a hard drive for evidence purposes. Connected to WiFi network internally to the house through TP-Link for remote access to all cameras in live mode. Wiring feeds to cameras not exposed externally to house and fed through loft cavity' at 60 Arden Crescent, Dagenham, RM9 6TP in accordance with the terms of the application, Ref 19/01336/FUL, dated 10 August 2019.

Procedural Matters

2. At the time of my site visit the CCTV cameras had been installed and the proposal is therefore retrospective.
3. The Council refer to several policies within the Draft Local Plan (Regulation 18 Consultation Version, November 2019). However, as the Draft Local Plan is at an early stage and may be subject to further change, I only attach limited weight to these policies.

Main Issue

4. The main issues in this case are:

- The effect of the proposal on the character and appearance of the area with particular reference to the perception of crime; and
- The effect of the proposal on the living conditions of the occupiers of neighbouring properties with particular reference to privacy.

Reasons

Character and appearance

5. The appeal property is an end of terrace dwelling which is located in a residential area comprising of mainly terraced properties. There is also a school opposite the appeal site. The appeal proposal concerns the installation of 4 CCTV cameras which have been positioning around the property for security purposes.
6. Of these, 2 CCTV cameras have been installed on the front elevation of the dwelling. The cameras are small in size and have been discretely positioned just beneath the eaves at both corners of the dwelling. The cameras provide surveillance of the appellant's driveway and a small section of the adjacent public highway. The cameras are not unduly prominent or obtrusive and due to their small size and siting, they are barely perceptible in the street scene. I am therefore satisfied that the cameras provide an appropriate balance between the need for security whilst not leading to a significant perception of crime. Moreover, I also noted at my site visit that several other dwellings in the immediate area have installed CCTV cameras.
7. Accordingly, the proposal complies with Policies CP3 of the LDF Core Strategy (2010) (CS) and Policies BP8 and BP11 of the LDF Borough Wide Development Plan Policies DPD (March 2011) (DPD) which among other things, seek to protect privacy and provide safe environments that reduce the fear of crime and improve crime prevention.

Living conditions

8. As described above, the two cameras on the front elevation of the dwelling provide surveillance of the appellants driveway and a small section of the adjacent public highway. I am satisfied that as a result of their small size and discrete positioning, they do not lead to a perception of overlooking of neighbouring occupiers.
9. Two further cameras have been installed on the dwelling. These are similarly small in size and the appellant confirms that they work on motion detection. One of these cameras is installed at a low level and provides surveillance along the side access to the home, whilst the other is shown to be centrally located on the rear elevation of the property with the purpose of providing security to the rear entrance. The cameras are sited such that they do not lead to the perception that neighbouring properties are being overlooked, even when considered in combination with the cameras on the front elevation of the dwelling.
10. In conclusion, the proposal does not have a materially harmful effect on the living conditions of the occupiers of neighbouring dwellings with particular

reference to privacy. The proposal complies with Policies CP3 of the CS and Policies BP8 and BP11 of the DPD which among other things, seek to protect privacy and provide safe environments that reduce the fear of crime and improve crime prevention. Furthermore, I am satisfied that the proposal would not conflict with the National Planning Policy Framework or Policies 7.1, 7.4, and 7.6 of the London Plan (2016) insofar as they are relevant to this appeal. The Council also refer to Policy D4 of the Draft London Plan Intend to Publish (December 2019) which seeks to deliver good design and does not appear to be directly relevant to the appeal proposal.

Conditions

11. It is not necessary to impose any conditions as the development has already been carried out.

Conclusion

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

J Davis

INSPECTOR