
Appeal Decision

Site visit made on 5 January 2018

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 January 2018

Appeal Ref : APP/B5480/C/17/3172503

Land at 22a Laburnham Gardens, Upminster, RM14 1HU

- 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 James Edward Patrick Tibbs against an enforcement notice issued by the Council of the London Borough of Havering.
- The notice was issued on 24 February 2017.
- The breach of planning control as alleged in the notice is without planning permission the erection of a part single-part 2 storey extension including the extension to the roof of the existing dwelling.
- The requirements of the notice are **either** (i) make all necessary alterations to the part-single-part 2-storey extension and the extension to the roof of the dwellinghouse so that it accords with the details (including all sizes, specifications and materials) submitted and approved under application DO126.14; (ii) remove all materials and debris resulting from step (i) from the site **or** (iii) remove the part-single-part 2-storey extension and the extension to the roof of the dwellinghouse in its entirety (iv) remove all materials and debris resulting from step (iii) from the site.
- The period for compliance with either steps (i) and (ii) or steps (iii) and (iv) of the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeal is dismissed and the enforcement notice is upheld.

Preliminary matter

1. During the course of the appeal it was confirmed that payment of fees in relation to the deemed application had been received by the Council. I shall therefore determine this appeal based on grounds (a) and (f).

Ground (a) appeal and deemed application

2. The main issue in the determination of this appeal is the effect of the development on the character and appearance of the host dwelling and surrounding area.

Character and appearance

3. The development plan (including the London Plan and the Local Development Documents within the Local Development Framework including the Havering Core Strategy (the Core Strategy)) mirrors the National Planning Policy Framework in seeking to ensure that development respects its surroundings. Policy DC61 of the Core Strategy provides that permission will only be granted

for development that maintains, enhances or improves the character and appearance of the local area. I have also taken into account as a material planning consideration the Council's Supplementary Planning Document for Residential Extensions and Alterations.

4. The appeal site is a single storey detached dwellinghouse. The surrounding area is predominantly residential. The development the subject of this appeal is a part single, part 2 storey rear extension including an extension to the roof. A certificate of lawful use or development exists for a single storey rear extension and a loft conversion reference DO126.14 (the CLD).
5. The unauthorised development is dominant in appearance. It is highly visible from the highway at the front of the property. The dormers are not set below the ridgeline of the original roof and when viewed from the front elevation appear as one single block like structure. The development has the visual appearance of a single large cube set into the first floor. Its cream render does not match the materials of the dwellinghouse adding to its prominence. The Appellant comments that the ridge height of adjacent buildings are higher than that of the dwelling but similar development is not characteristic of the surrounding area. It is overbearing and incongruous relating poorly to its surroundings. By reason of its scale, bulk and mass it is out of character with the host dwelling and surrounding area.
6. I conclude that the development causes harm to the character and appearance of the host dwelling and the surrounding area. It does not maintain, enhance or improve the character and appearance of the area contrary to relevant policies of the development plan, including policy DC61 of the Core Strategy.
7. I have considered whether conditions could overcome the identified harm and have taken into account the Planning Practice Guidance. No conditions are proposed by either party. I do not consider that conditions could overcome the identified harm.
8. I agree with the Council that the plans for an alternative scheme before me in this appeal do not address the identified harm by reason of the scale of the unauthorised development.
9. The Appellant asks that I propose a solution acceptable to both parties. But that is to misunderstand the remit of this appeal. The remit of the ground (a) appeal is to determine a deemed application for permission for the development enforced against or within its parameters.
10. For the reasons given above I conclude that the development causes harm to the character and appearance of the host dwelling and surrounding area and is contrary to the development plan. Planning permission should not be granted on the deemed application.

Ground (f) appeal

11. This ground of appeal is whether having regard to the purpose for which the notice was issued, the steps exceed what is necessary to meet that purpose.
12. There are two purposes which the requirements of an enforcement notice can seek to achieve. The first is to remedy any breach of planning control that has occurred. The second is to remedy any injury to amenity which has been

caused by the breach. In this case the notice provides for alternative options – the removal of the development in its entirety or implementation of the CLD.

13. The Appellant argues that lesser steps could overcome the identified harm. He refers to an alternative scheme but as indicated in the ground (a) appeal that scheme does not overcome the identified harm.
14. Alternatively, the Appellant proposes that the requirements of the notice be amended to require reinstatement of the appearance of the elevations to a tile hung finish to the dormers. But this would not address the harm caused by the scale and bulk of the development. Whilst I note that the Appellant says that the reason the side dormer projects further to the rear is to satisfy building regulations this does not justify the identified harm.
15. I conclude that the steps set out in the notice do not exceed what is necessary to meet the purposes of the notice. Consequently, the ground (f) appeal does not succeed.

Formal Decision

16. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended

S. Prail

Inspector