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## Appeal Decision

Site visit made on 9 October 2017

**by Diane Fleming BA (Hons) MRTPI**

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

**Decision date: 10 November 2017**

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**Appeal Ref: APP/B5480/C/17/3166563**

**27 Wentworth Way, Rainham, Essex RM13 9NL**

- 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 Antony Burvill against an enforcement notice issued by the Council of the London Borough of Havering.
  - The enforcement notice was issued on 30 November 2016.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of an outbuilding.
  - The requirements of the notice are either
    - (i) Reduce the height of the outbuilding to a maximum of 2.5m from natural ground level.
    - (ii) Remove all materials and debris from the site associated with step (i). Or
    - (iii) Remove the outbuilding in its entirety.
    - (iv) Remove all materials and debris from the site associated with step (iii).
  - The period for compliance with the requirements is two months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. 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.

### The ground (a) appeal and the deemed planning application

#### Main Issues

2. The main issues are the effect of the development on (i) the character and appearance of the area; and (ii) the living conditions of neighbouring occupiers, having regard to outlook.

#### Reasons

##### *Character and appearance*

3. The appeal concerns a mid-terrace property fronting Wentworth Way. Anchor Drive runs along the rear of the site and provides access to a sheltered housing complex. Many occupiers of Wentworth Way have erected detached outbuildings, including garages, within their rear gardens. These are generally flat roof structures and are modest in height. There are other terraced properties in this residential area that overlook the sheltered housing complex which also have a variety of detached outbuildings in the rear gardens but the vehicular access to these properties from Anchor Drive is not hard surfaced and

has the appearance of a back lane. The area has no particular designation by the Council but the well-kept gardens and neat fence lines, together with the new housing, have resulted in a pleasant street scene.

4. The appellant has replaced a former garage in his rear garden with a much larger structure which is 4.8m wide and 7m in depth. At the time when the notice was issued, the garage had a tiled, pitched roof and an overall height of 3.9m. The appellant has since altered the appearance of the garage by removing the pitched roof. The overall height is now in the order of 2.75m. However, it is the appearance of the garage at the time when the notice was issued that is the appeal before me now.
5. The walls of the garage are formed from unpainted concrete blocks and, in addition to the roller shutter door overlooking the road, there are two windows and a pair of French windows overlooking the garden. The garage occupies the full width of this narrow plot and I consider when it had a pitched roof that was parallel to the road it would have been overly prominent in the street scene. On entering Anchor Drive from Wentworth Way the view across the rear gardens is largely open despite the number of existing garages and sheds. This is because the height of the outbuildings generally is not much more than the height of the intervening fences. However, with a pitched roof the garage at the appeal site would have interrupted this view and would have contrasted unacceptably with the existing built form in the area.
6. In support of the appeal the appellant submits that there are many garages in the area and referred to one in particular at the rear of a property in Upminster Road South. This has a tiled, pitched roof parallel to the back lane similar in height to that which existed at the appeal site. I saw that such pitched roof garages are very much in the minority in the immediate area and I do not know the circumstances of that development or the policies that applied at the time of its construction. In any event, it only serves to confirm that such garages are overly prominent, to the detriment of the character and appearance of the area.
7. The appellant also submits that a pitched roof is necessary to prevent burglars from scaling the roof and breaking into and entering his property. He also needs the roof space for storage in association with his car hobby. However, there are other options open to the appellant which could deter burglars and the careful use and design of the space inside the garage could enable more possessions to be stored.
8. For these reasons I conclude that the design of the garage, as existed at the time when the notice was issued, resulted in harm to the character and appearance of the area. It therefore did not accord with Policy DC61 of the Council's Development Plan Document<sup>1</sup>. This requires that development should maintain the character and appearance of the local area and respect the scale, massing and height of the surrounding physical context. I give this policy significant weight as it is consistent with the National Planning Policy Framework's (the Framework) requirement for good design.

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<sup>1</sup> London Borough of Havering Core Strategy and Development Control Policies Development Plan Document Adopted 2008

*Living conditions*

9. The Council were concerned that the design of the garage, having regard to its height in particular, resulted in harm to the living conditions of neighbouring occupiers in terms of outlook.
10. The properties either side of the appeal site are also mid-terrace and that at No 25 has been extended to the rear. There is a simple shed at the rear of No 29 and a slightly larger one at No 25. The gardens are narrow and slope gently away from the rear elevations. However, even with this slight change in levels, I consider when the garage had a pitched roof that it would have detracted from the generally open outlook across the garden enjoyed by neighbouring occupiers.
11. Whilst there was a previous garage on site, this was smaller in scale being 4m wide, 6m in depth and 2.4m high. The new garage, which occupies the full width of the plot, at 3.9m high, would have towered over the height of the dividing garden fences especially as it would have had a gable wall facing each neighbouring garden. A third party submits that the new garage is of benefit as it closed a visual gap between the properties. However, this is still the case even with a lower roof.
12. For these reasons I therefore conclude that the design of the garage, as existed at the time when the notice was issued, resulted in harm to the living conditions of neighbouring occupiers, having regard to outlook. It therefore did not accord with Policy DC61 which states planning permission will not be granted for development that fails to protect living conditions. This aspect of the policy is consistent with one of the Framework's core planning principles, that planning should always seek to secure a good standard of amenity for all existing occupants of land and buildings. The appeal on ground (a) therefore fails.

**Conclusion**

13. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

*D Fleming*

INSPECTOR