
Appeal Decisions

Site visit made on 6 September 2016

by Nigel Burrows BA MRTPI

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

Decision date: 20 September 2016

Appeal A: APP/G5750/C/16/3148916 165 Sherrard Road, Forest Gate, London, E7 8DY

- 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 Dr Alin Uddin against an enforcement notice issued by the Council of the London Borough of Newham.
- The enforcement notice, ref: 15/01294/ENFC, was issued on 8 April 2016.
- The breach of planning control as alleged in the notice is the erection of a rear extension and rear infill extension.
- The requirements of the notice are:-
 1. Demolish the extensions (as shown edged in blue on the attached plan).
 2. On completion of step 1 above, remove all materials and debris from the site.
- The period for compliance with the requirements is three 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.

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

Appeal B: APP/G5750/W/16/3147656 165 Sherrard Road, Forest Gate, London, E7 8DY

- 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 Dr A Uddin against the decision of the Council of the London Borough of Newham.
- The application Ref 16/00047/HH, dated 6 January 2016, was refused by notice dated 4 April 2016.
- The development proposed is described as 'Rear Extension for Disability Use'.

Summary of Decision: The appeal is dismissed

Background

1. The appeals relate to a two storey terraced property situated on the north side of Sherrard Road near its junction with Nigel Road, within a residential area of Forest Gate.
2. The enforcement notice subject of Appeal A is directed at a single storey extension projecting from the original rear wing of the property and an infill extension alongside this wing. These extensions abut the boundaries with the neighbouring properties.
3. According to the Council, the overall depth of the extension that projects from the rear wing and abuts the boundary with 167 Sherrard Road is about 6.0m; it also exceeds the width of the rear wing by about 600mm. The Council indicates the overall depth of the infill extension abutting the boundary with 163 Sherrard Road is approximately 4.0m.
4. Appeal B arises from the Council's decision to refuse a retrospective planning application for the extensions in their entirety, as shown on the application drawings.

Appeal A: ground (a) and Appeal B

Main Issues

5. Taking into account all that I have seen and read, I consider there are two main issues to be addressed in both appeals. The first is the effect of the development on the character and appearance of the property and the area. The second is its effect on the living conditions of neighbours, particularly in terms of their outlook, sunlight and daylight.

Issue 1: Character and Appearance

6. The property lies within an area characterised by Victorian-style terraced housing. Notwithstanding any differences in the detailed design of the properties, the overriding impression is of a uniform pattern of development. The close-knit relationship of the dwellings means the open character afforded by their modestly-sized, narrow rear gardens makes a significant contribution to their setting and to the character of the area.
7. The extensions convey the impression of large, flat-roofed, block-like structures which have little affinity with the architectural composition or detailing of the main building. The rendered/painted finish of the extensions emphasises their large, block-like form. Taking into account the site cover, depth and form of these extensions, they have resulted in a disproportionate enlargement of the property at ground floor level. The structures also intrude on the limited open character available to the rear of the property. I conclude they significantly harm the character and appearance of the host property and diminish the open character of the area to an unacceptable degree.
8. The submissions for the appellant infer the 'same extension' exists on both of the neighbouring properties.¹ Whilst a large single storey extension exists to the rear of 167 Sherrard Road, the lawfulness of this extension is unclear.² Consequently, the presence of this extension is not a positive factor in favour of the appellant's scheme. I observed that a single storey range also exists to the rear of 163 Sherrard Road. However, this appears to be of some age, its overall size and configuration appears to be materially different and, furthermore, it is inset from the boundary with 165 Sherrard Road. As such, it is not directly comparable to the development before me.
9. As matters stand, I find these extensions conflict with the relevant development plan policies cited by the Council, including SP1 and SP3 of its Core Strategy (adopted in January 2012), which seek to achieve high quality development and to ensure that proposals reinforce or create local distinctiveness and integrate with their local context.

Issue 2: Living Conditions

10. The two extensions have significantly increased the depth of built development along the boundaries with the properties on either side. For the purposes of assessing the merits of this development, it is necessary to discount the presence of the rear extension at 167 Sherrard Road (given the uncertainty about its lawfulness). In the circumstances, there is a clear risk that the overall depth and configuration of the extension along the boundary to 167 Sherrard Road would have a dominating and overbearing impact; it would potentially have an oppressive impact on the neighbouring residents, to the extent that it would significantly harm their outlook, thereby diminishing their living conditions. Notwithstanding the more modest depth of the infill extension, it would have a similar adverse impact upon the occupiers of 163 Sherrard Road, who are likely to feel hemmed in by the development.
11. As matters stand, I conclude these extensions conflict with the relevant development plan policies cited by the Council, including SP3 of the Core Strategy and H17 of the UDP³, insofar as they seek to minimise the environmental impact of development and seek to ensure that alterations and extensions to dwellings provide a satisfactory level of outlook.

¹ i.e. the submissions made in relation to ground (a) of Appeal A

² I have also been appointed to determine a section 78 appeal concerning an extension at 167 Sherrard Road

³ London Borough of Newham Unitary Development Plan (2001)

12. The Council argues the extensions have also resulted in a loss of sunlight and daylight to the adjoining properties. However, the Council has not produced any firm evidence in support of this argument, for example, any sunlight or daylight analysis. Given the configuration of the extensions and the orientation of the dwellings, I recognise there is a risk the development might lead to some overshadowing, especially to the rear garden of 167 Sherrard Road. However, in other respects, it should not cause any unacceptable loss of sunlight or daylight to the adjacent properties. The Council also claims there would be additional overlooking. However, if I were minded to allow these appeals, it would be possible to address this concern by imposing conditions exercising control over the configuration of the windows and door openings within the extensions.
13. The Council also claims the extensions have resulted in a loss of private amenity space. However, the extent of any potential shortfall has not been quantified. In any event, a more decisive objection to the extensions is their potential impact on the outlook of neighbours.

Other Considerations

14. Notations upon the application drawings subject of Appeal B indicate the accommodation is 'suitable for the disabled'. However, the submissions on the appellant's behalf do not elaborate further. No arguments have been advanced to demonstrate there is a specific requirement to provide disabled persons accommodation upon the site. I am not persuaded that, in the overall planning balance, this consideration is of sufficient weight to justify the grant of planning permission for the development which has taken place.

Overall Conclusions

15. The Council's concern to protect the character and appearance of the area and the living conditions of residents is broadly consistent with the Government's objectives for the planning system. Paragraph 14 of the National Planning Policy Framework (March 2012) sets out the presumption in favour of sustainable development. The economic, social and environmental dimensions of sustainable development should be addressed. Paragraph 9 also makes it clear that pursuing sustainable development includes seeking positive improvements in the quality of the environment and improving people's quality of life. The development before me conflicts with these objectives.
16. It is not obvious to me that the overall objections to these extensions could be overcome by any reasonable or appropriate planning conditions. In view of my findings on the main issues, I conclude the appeal on ground (a) and the deemed application arising from Appeal A should not succeed. I further conclude that Appeal B should be dismissed. I have taken into account all the other matters raised, however, I find that they do not alter or outweigh the main considerations that have led to my decisions.

Formal Decisions

Appeal A: APP/G5750/C/16/3148916

17. The appeal is dismissed, 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: APP/G5750/W/16/3147656

18. The appeal is dismissed.

Nigel Burrows

INSPECTOR