

Appeal Decisions

Site visit made on 1 November 2016

by David Walker MA MRTPI

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

Decision date: 05 December 2016

Appeal A Ref: APP/G5750/W/16/3150107

38a Shrewsbury Road, Eastham, London E7 8AL

- 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 Shahzad Zadran against the decision of the Council of the London Borough of Newham.
 - The application Ref 15/03462/FUL, dated 1 September 2015, was refused by notice dated 12 February 2016.
 - The development proposed is the erection of ground floor rear and part infill extension.
-

Appeal B Ref: APP/G5750/W/16/3150121

38 Shrewsbury Road, Forest Gate, London E7 8AL

- 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 Shahzad Zadran against the decision of the Council of the London Borough of Newham.
 - The application Ref 15/03608/FUL, dated 16 December 2015, was refused by notice dated 15 February 2016.
 - The development proposed is a rear outbuilding.
-

Decisions

1. Appeal B is dismissed.
 2. Appeal A is dismissed insofar as it relates to the erection of a part infill extension. Appeal A is allowed insofar as it relates to the erection of a ground floor rear extension and planning permission is granted for erection of ground floor rear extension at 38a Shrewsbury Road, Eastham, London E7 8AL in accordance with the terms of the application, Ref 15/03462/FUL, dated 1 September 2015, 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: A00 dated 27-08-2015; A01 dated 05-12-2015; A02 dated 05-12-2015; A03 dated 05-12-2015; A04 dated 27-08-2015; A05 dated 27-08-2015; and A07 dated 27-08-2015, insofar as they relate to the rear extension only.
 - 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.
-

Preliminary Matters

3. The address given for the two proposals in the application forms is different. However, I am satisfied that they relate to the same property and have linked the two appeals accordingly.
4. Although the outbuilding proposed in Appeal B was already constructed and substantially complete at the time of my site inspection I have considered the appeal on its merits.

Main Issues

5. The main issue in both Appeal A and Appeal B is the effect of the proposals on the character and appearance of the area.
6. In Appeal A there is an additional main issue in the effect of the proposal on the living conditions of 1) existing occupants of adjoining properties having regard to privacy and outlook, and 2) future occupants having regard to the availability of garden space.

Reasons

Character and appearance

7. Shrewsbury Road is a street of two storey terraced houses in narrow plots with modest rear gardens. The appeal property is the ground floor flat of No 38. It includes the rear garden which is highly visible due to the close proximity and rear facing windows of other properties along the street.
8. While there are many existing extensions and outbuildings in the vicinity of the appeal property, of varying size and quality, the policies of the London Borough of Newham Core Strategy 2012 (the CS) seek to raise the standard of housing in the area. In particular Policy S6 of the CS introduces a greater focus on improving housing quality.
9. In the context of the generally open but small rear gardens of the area the outbuilding of Appeal B appears overly large and out of scale with its surroundings. Spanning the full width of the garden in a tall flat roof structure with modern windows and door it has a dwelling-like appearance that is out of keeping with the intimate scale of the rear gardens.
10. The appellant has indicated that the outbuilding falls within size limits set out within Council policies. However, I have no details of these before me to be able to draw any comparisons. On this basis and as the outbuilding is plainly visible from the rear of the existing properties of the street I find the outbuilding of Appeal B to have a harmful effect on the character and appearance of the area.
11. As a result Appeal B conflicts with planning policies requiring development to be of a high standard of design with regard to the character and appearance of the locality set out at Policies S6, SP1, SP2 and SP3 of the CS, saved Policy H17 of the Newham Unitary Development Plan 2001 (the UDP), and Policies 7.1 and 7.4 of the London Plan 2015 (the LP).
12. The Council's decision notice also refers to Policy SP8 of the emerging Newham's Local Plan: Detailed Sites and Policies Document 2015 but as I have

no assurances over the extent to which the document has been found to be sound it attracts only limited weight.

13. The rear extensions of Appeal A are not as prominent as the outbuilding. Having regard to larger rear extensions in the area, including on an adjoining property, these would not appear out of scale as to give rise to harm. With suitable materials as could be secured by a condition I am satisfied that Appeal A would have a satisfactory effect on the character and appearance of the area to accord with additional Policy H1 of the CS raised in the Council's decision notice.

Living conditions

14. Notwithstanding my findings under character and appearance, the part infill extension proposed under Appeal A would extend some distance along the common boundary. In combination with high eaves and a flat roof it would enclose the narrow side return of the neighbouring property with a tunnelling effect that would lead to a diminished outlook from ground floor windows.
15. Such an effect would be harmful to the living conditions of existing and future occupants of the neighbouring property. As a result this element of the proposal would conflict with the requirements of saved Policy H17 of the UDP and Policy 7.6 of the LP for new development to provide a satisfactory level of outlook and amenity.
16. However, the rear extension of Appeal A would not be as large as other extensions in the vicinity. Although it would project rearwards it would be positioned to the north of No 40 where it would be unlikely to reduce the availability of natural light to the neighbouring property. There would be some loss of outlook from existing rear facing windows for the neighbour but not unduly so given the existing high fence between the properties. On this basis I am satisfied that this element of the proposal would fulfil the requirements of Policy H17 of the UDP and Policy 7.6 of the LP.
17. I acknowledge issues raised by the neighbour relating to the position of kitchen appliances and extraction systems, guttering and overhangs, and any removal of the boundary fence. However, the internal arrangement of the accommodation proposed is not a matter before me for consideration and nothing in any grant of planning permission overrides private rights in relation to boundary issues.
18. Turning to the availability of garden space. As I have not found the outbuilding of Appeal B to be satisfactory I have not taken its impact on the availability of garden space into account in my consideration of Appeal A. Therefore, in the absence of the outbuilding I am satisfied that the rear extension of Appeal A would retain a sufficient amount of garden space for the existing and future occupants of the appeal property.
19. Overall under this issue, I find the part infill extension of Appeal A to result in harm to the living conditions of the neighbour but the rear extension of Appeal A to be acceptable. On this basis I intend to issue a split decision for Appeal A. Therefore as the plans indicate that the side and rear extensions are both functionally and physically severable I conclude that the part infill extension should be dismissed and the rear extension should be allowed.

20. The rear extension of Appeal A being allowed I attach standard conditions identifying the implementation period and approved plans in the interest of certainty, and a further condition requiring matching materials in the interests of the visual qualities of the area.

Conclusion

21. For the reasons given above, and with regard to the development plan read as a whole, I conclude that Appeal B should be dismissed and that a split decision in Appeal A is warranted, in that the part infill extension should be dismissed and the rear extension should be allowed.

David Walker

INSPECTOR