
Appeal Decision

Site visit made on 23 January 2017

by Brendan Lyons BArch MA MRTPI IHBC

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

Decision date: 16 February 2017

Appeal Ref: APP/G5750/W/16/3161346

39 Balaam Street, Plaistow, London E13 8EB

- 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 Malcolm Oppong against the decision of the Council of the London Borough of Newham.
 - The application Ref 16/01832/FUL, dated 8 June 2016, was refused by notice dated 30 September 2016.
 - The development proposed is described as retention of an existing single storey rear extension.
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Decision

1. The appeal is dismissed.

Background

2. No.39 Balaam Street forms part of a shopping parade in an inner London location. It is a mid-terrace two-storey building in use as a restaurant with a flat above. Permission is sought for a single-storey extension that has been added to the rear of the building and which houses the restaurant kitchen.
3. The extension occupies much of the original yard to No.39, covering the full width of the plot and leaving a small area of open yard to the rear boundary. A door in the side wall opens into an open yard or terrace to the rear of the adjoining shop, No.41, from which it is separated by part of the appeal premises that extends across both plots. Beyond the rear boundary wall to both yards stands a substantial detached house, No.19 Abbey Street, described by the appellant as 'the Rectory'.
4. The Council states that an enforcement notice¹ has been in place since 2013, which requires removal of the extension. The notice, which covers No.39 and the area to the rear of No.41 demands among other matters a return of the rear elevation of No.39 to its previous form or to implement permission granted in 2012² for a smaller extension. An appeal against the notice³ was dismissed in December 2014. It is agreed that a number of the steps required by the notice have since been taken, in particular the roof structures enclosing both yard areas have been removed, the extract flue has been relocated and altered and air conditioning units have been moved from the roof of the extension.

¹ Ref 13/00343/ENFC

² Ref 12/00965/FUL

³ Ref APP/G5750/C/14/2213607

5. On my visit to the site I noted that the yards were uncovered but that some timber studwork and sheeting remained on top of the rear boundary wall and between the two yards and on the extension roof. This is not shown on the plans now submitted and in my view does not form part of the current appeal proposal. I have confined my consideration to the actual single-storey rear extension to No.39, including the new extract flue and the air conditioning unit fixed to the side wall.

Main Issues

6. The main issues in the appeal are the extension's effects on the character and appearance of the area and on the living conditions of residents of 19 Abbey Street, with regard to outlook.

Reasons

Character and appearance

7. The Council acknowledges that rear extensions are a common feature of the local area, and that the space they provide can enhance commercial properties. On my visit I noted that many of the buildings that make up the Balaam Street parade appear to have been extended to the rear, with some by more than one storey. The Council has not disputed the appellant's statement that the significant rear extensions to the properties to either side of the appeal site, Nos.37 and 43, have both been approved by the Council. The extension at No.37 steps down to single-storey height and fills the entire plot, while that at No.43 opens onto a side street and occupies almost the full site area.
8. In this general and specific context, the extension at No.39 cannot be said to be out of character with the pattern of development in the area, as stated in the reason for refusal of the planning application. The extension is very low in height, and considerably lower than the adjoining flank wall of No.37. Although its footprint fills the width of the plot, a small usable area of service yard has been retained. I do not agree with the Council that the extension itself is of excessive size and bulk.
9. However, the extract flue is of a different scale, rising well above the adjoining building. Thus, while the extension has very limited visibility from outside the site, the flue is prominently visible from the public highway, where it stands out against the skyline. The extension's low-rise, flat-roofed form represents a pragmatic design solution and its rendered walls and decorative tiled plinth provide an acceptable standard of materials and finish. By contrast, the flue appears as a utilitarian feature, whose design and materials do not relate well to the form of the building or to the immediate setting.
10. The extension now appears to be different in treatment from the earlier appeal, where the Inspector referred to mismatched materials and breezeblock walls. The air conditioning unit is no longer sited at roof level and is now in an acceptable position facing into the main open yard. But while the extract flue has also been relocated, its current design and position do not resolve the concerns that led to dismissal of the previous appeal on this ground, and it remains as a dominant feature of industrial appearance.
11. The National Planning Policy Framework ('NPPF') emphasises the importance of good design in making places better for people, and advises that permission should be refused for development of poor design that fails to take the

opportunities available for improving the character and quality of an area and the way it functions⁴. This approach is echoed by the policies of the London Plan and the Newham Local Plan cited in the reason for refusal. The appeal proposal does not accord with these policies, in particular with Policy SP3 of the Newham Core Strategy, which stresses the important contribution that individual development proposals can make to the quality of local places.

Living conditions

12. The rear elevation of No. 19 Abbey Street is located only a short distance from the boundary of the appeal site. A number of windows of what appear to be main habitable rooms face the site. Because of its low profile, the extension has little impact on outlook from these windows. However, partly because No.19 is set at a slightly lower level, the extract flue will appear as a dominant feature of industrial character in views out from the house and from its rear garden. Views are only slightly screened by a row of small trees in the garden, as these are mainly behind the rear boundary with No.41. The adverse effect on outlook will have a harmful effect on living conditions at No.19. The relocation and re-design of the flue have not addressed the previous Inspector's concern in this regard.
13. The harmful effect does not accord with the core principle of the NPPF that development should always seek to achieve a good standard of amenity for all existing and future occupiers of land and buildings⁵, and is also contrary to Policy SP8 of the Newham Local Plan Detailed Sites and Policies Development Plan Document, which seeks to ensure the environmental, social and design impacts of development are neighbourly.

Conclusion

14. I acknowledge the appellant's case that the extension is not significantly greater in area than that previously approved, and I have accepted that the extension's size and bulk are not matters that would lead to rejection of the appeal. However, the flue provides a much bigger element with harmful effects both on the character and appearance of the area and on neighbours' living conditions. I noted that there are other flues nearby, some even taller and more prominent than the appeal structure, but the existence of other poor quality development, which might not have received planning permission, does not justify approval of further harm. In any event, the other flues would not have the same particular effects as the appeal proposal, which I have considered on its own merit.
15. For the reasons set out above, and having taken account of all representations made, I conclude that the appeal should be dismissed.

Brendan Lyons

INSPECTOR

⁴ NPPF paragraph 64

⁵ NPPF paragraph 17