
Appeal Decision

Site visit made on 14 March 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 22 March 2017

Appeal Ref: APP/G5750/D/16/3165270

120 Chestnut Avenue, Forest Gate, London E7 0JJ

- 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 Jamie Ratcliff against the decision of the Council of the London Borough of Newham.
 - The application Ref PA/02353/HH, dated 27 July 2016, was refused by notice dated 21 September 2016.
 - The development proposed is formation of side dormer extension to existing loft.
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Decision

1. The appeal is allowed and planning permission is granted for formation of side dormer extension to existing loft at 120 Chestnut Avenue, Forest Gate, London E7 0JJ in accordance with the terms of the application, Ref PA/02353/HH, dated 27 July 2016.

Application for costs

2. An application for costs was made by Mr Jamie Ratcliff against the Council of the London Borough of Newham. This application is the subject of a separate Decision.

Preliminary and procedural matters

3. In comparing the existing and proposed plans submitted with the application it is clear they show more than the "formation of side dormer extension to existing loft" referred to as the "description of proposed works" on the application form and as set out in the heading. The drawings also show the insertion of a new roof light and glass door to an existing single storey element. The Council's reason for refusal relates solely to the alleged effects of the dormer, and as that is all that set out on application form as applied for I will limit my consideration to that element alone.
 4. In October 2016 the Council adopted the Newham 2027: Newham's Local Plan Detailed Sites and Policies Development Plan Document (the DSPDP) and this became part of the development plan for the area. This superseded Policy H17 of the Newham Unitary Development Plan referred to in the decision notice. This superseded policy is no longer material to the determination of this appeal.
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5. On 2 February 2017 an appeal¹ under Section 195 of the Town and Country Planning Act, 1990 (as amended) against a refusal by the Council to grant a certificate of lawful development or use (the LDC) for “creating a new dormer extension over rear closet wing and the insertion of a new roof light and glass door to existing single storey extension” was allowed and a certificate granted as the development would have been permitted development by virtue of the provisions of Article 3(1) and Classes A and B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
6. Whether a proposal represents ‘permitted development’ or not does not form part of the consideration of an application for planning permission or a subsequent appeal. The application and any subsequent appeal should be determined in accordance with the terms of the development plan unless material considerations indicate otherwise.
7. The development has been completed, although the application form indicates that when the application was made the development had not taken place.

Main Issues

8. The main issues are the effect on:
 - the character and appearance of the area; and
 - the living conditions of the occupiers of 118 and 122 Chestnut Avenue in terms of light and outlook.

Reasons

9. The appeal property is a mid-terrace dwelling. The property was originally two-storeys in height, although the loft space has been converted at some time in the past with rooflights in the front elevation and a dormer, covering most of the width of the property, in the main rear roof plane. It has a two-storey outrigger to the rear of the property which creates half of a pair with a similar outrigger to the adjoining property (No 118) to the south.
10. The property is the third property from the northern end of the terrace on the eastern side of the road. It is close to the junction of Chestnut Avenue with Capel Road. There is an access from the rear garden of the appeal property to Cranmer Road which is at an acute angle to Chestnut Avenue with no intervening properties or their gardens. The rear elevation of the appeal property, and the neighbouring properties, can thus be seen both from Cranmer Road and from Capel Road.
11. At the time of my site visit in early March the rear elevations of the dwellings at this northern end of Chestnut Avenue could be clearly seen as the street trees were not in leaf. The overall impression I had was that the various upper floor rear extensions followed a consistent pattern, but there was variation as some had a mono-pitch and the dormers in the roof planes also added variety.

Development plan and supplementary policies

12. The Council has referred to a number of development plan policies it considers that the proposal contravenes. The appellant disputes whether a number of

¹ APP/G5750/X/16/3155523

them are material. As the development should be the starting point for the consideration of the proposal, it is first appropriate to see whether the cited policies are, in fact, material to the consideration of the proposal, and then judge the proposal against those which are so material, along with any other material considerations.

13. Policy 7.1 of the London Plan (the LP) deals with Lifetime Neighbourhoods. This refers to various aspects of development to which planning decisions should relate, but none of these, with the exception of that relating to the design of new buildings and the spaces they create, are material to this application for a domestic extension. This single design aspect relates to the character of the neighbourhood which would not be affected by the proposal. Policy 7.4 of the LP deals with local character and buildings, and this would include extensions to buildings. This indicates that proposals should provide a high quality design response having regard to the pattern and grain of existing spaces and streets in scale proportion and mass. Policy 7.6 of the LP requires that buildings should comprise details and materials that complement the local architectural character. Whether a proposal complies with these last two policies depends on an assessment of its effects.
14. Policy S1 of Newham 2027: Newham's Local Plan – The Core Strategy (the CS) is a high level strategic policy setting out the direction of travel for the plan area. It is of little materiality as regards an application for a domestic extension, but insofar as the proposal provides for quality family housing the proposal would comply with this policy.
15. Policy SP1 of the CS deals with Borough-wide Place-making. It expects high quality development which contributes to successful and distinctive places. Again this is a high level policy, and compliance, or otherwise, depends on whether the proposal is appropriate to the area. Policy SP2 of the CS relates to Healthy Neighbourhoods, and while ensuring appropriate living conditions is part of ensuring a health environment, the proposal would have no effect on health care partners' efforts to promote healthy lifestyles and reduce health inequalities which is sought under the terms of the policy.
16. Policy SP3 requires that development proposals will be expected to realise a high quality of urban design in the new buildings and spaces they create. As with Policy SP1 compliance, or otherwise, depends on an assessment of whether the proposal is appropriate to the area.
17. Policy H1 of the CS is referred to in the decision notice, but not in the officer report. This policy deals with Building Sustainable Mixed Communities where the aim of the policy is to create sustainable communities in quality neighbourhoods with the right mix and balance of housing types, sizes and tenures where residents feel safe and choose to live, work and stay. No evidence has been submitted to show that enlarging a single dwelling would adversely affect the mix and balance of dwellings within the Borough. I am therefore satisfied that the proposal would comply with this policy.
18. Policy SP8 of the DSPDP expects all development to achieve neighbourliness. It seeks to ensure developments ensure adequate access to daylight and sunlight. Compliance, or otherwise, will depend on an assessment of the effects of the development.

19. The Council also referred to its Supplementary Planning Guidance 'Altering and Extending your Home' (the SPD) which has a date of May 2000 upon it. There is no reference to whether it was subject to public consultation or whether it was formally adopted by the Council, but as it gives planning guidance on design and standards based on the principles of good design, which accords with national planning policy, I give this significant weight in my decision.
20. The SPD indicates a preference for rooflights to dormer windows, but this does not mean that dormers are unacceptable. It indicates that dormers may be acceptable at the rear and there is a preference for pitched roofs. The SPD indicates that dormers should not take up a substantial proportion of the existing roof, and not give the impression of being bulky or out of proportion with the existing house.

Character and appearance

21. As set out above, this appeal only relates to the additional dormer. This is located above the roof plane of the outrigger and involved building up the party wall and is set back from the end of the two storey outrigger. In my view it would represent a 'rear' dormer, in the context of the SPD, as it would not be located on the front elevation.
22. The dormer has been completed with an artificial slate finish which ensures that it recedes into the street scene and integrates with the materials on the pre-existing building. While taking a different form from the roof shapes in the area, and occupying a substantial proportion of the roof plane of the pre-existing outrigger, it has a pitch to the roof, is not 'boxy' and is appropriate within the variety of roof forms in the immediate area and does not appear discordant or intrusive in the street scene when viewed from both Capel Road and Cranmer Road.
23. As such the proposal would be in keeping with character and appearance of the area. It would therefore comply with Policies 7.4 and 7.6 of the LP and Policies SP1 and SP3 of the CS as set out above. As a pitched roof dormer it would comply with the principles of the SPD also set out above. It would also comply with paragraph 58 of the National Planning Policy Framework (the Framework) which indicates that planning decisions should aim to ensure that developments respond to local character, reflecting local surroundings and materials.

Living conditions

24. Although taller than the pre-existing outrigger, there is sufficient separation between the dormer and the adjoining property to the north, No 122, to ensure that the proposal would not result in the harmful loss of light or result in an overbearing effect leading to a loss of outlook to that property. Being to the north of No 118, the proposal would have no effect on sunlight received by that property, and given the disposition of windows in the rear elevations the proposal would not result in the harmful loss of daylight to that property, nor result in an loss of outlook or overbearing effect.
25. Consequently, the proposal would not have a harmful effect on the living conditions of the occupiers of 118 and 122 Chestnut Avenue. It would therefore comply with Policy SP8 of the DSPDP as set out above. It would also comply with paragraph 17 of the Framework which seeks a good standard of amenity for all existing occupiers of land and buildings.

Other matter

26. The appellant maintains that in the event that I found the proposal harmful, the fall-back position provided by the LDC provides a substantial material consideration which would indicate that the proposal should be determined not in accordance with the policies of the development plan. Given that I have found that the proposal complies with the development plan I do not need to undertake this balancing exercise.

Conditions

27. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. However as the development has been completed in accordance with the application drawings I can see no need for any conditions to be imposed.

Conclusion

28. For the reasons given above I conclude that the appeal should be allowed.

RJ Jackson

INSPECTOR