
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: 23 March 2017

Appeal Ref: APP/G5750/D/16/3165721
59 Mitcham Road, East Ham, London E6 3LT

- 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 Gowani against the decision of the Council of the London Borough of Newham.
 - The application Ref 16/03017/HH, dated 21 September 2016, was refused by notice dated 29 November 2016.
 - The development proposed is erection of ground floor infill extension.
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Decision

1. The appeal is allowed and planning permission is granted for erection of ground floor infill extension at 59 Mitcham Road, East Ham, London E6 3LT in accordance with the terms of the application, Ref 16/03017/HH, dated 21 September 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Number: 001, 002, 003, 004, 005.
 - 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 matter

2. On 16 February 2017 the Council indicated that prior approval was not required following an application under the terms of Schedule 2, Part 1, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO)¹. If constructed, this would be a similar extension to that the subject of the current appeal except that it would be 6 m long rather than the approximately 6.3 m long extension here proposed.

Main Issue

3. The main issue is the effect on the living conditions of the occupiers of 57 Mitcham Road in terms of light, outlook and sense of enclosure.

¹ Council reference: 16/04065/PREHH

Reasons

4. The appeal property is a two-storey mid-terrace dwelling located on the south side of Mitcham Road. The property has a single storey rear element, or outrigger, in two parts; that closest to the dwelling with a lean-to roof that matches the property to the west, No 61, and a smaller flat roofed element beyond that. There is an open timber structure to the side of the outrigger supported by pillars on the boundary wall.
5. The adjoining property to the east, No 57, has a glazed door with fan light above in the rear elevation of the main house and two windows in the side elevation of a single storey rear outrigger. The window closer to the main house is larger and clear glazed, and that further along the outrigger is smaller and obscure glazed. There are two obscure glazed windows in the rear elevation of the outrigger.
6. The proposal is for a single storey extension to the side of the existing single storey outrigger upto the boundary, essentially replacing the timber structure. As set out above it would be approximately 6.3 m deep so that it would be flush with the end of the existing rear element.
7. By extending the enclosed built form up to the boundary it would significantly reduce the amount of light into the rear room within the main part of No 57 and into the rooms within the outrigger thereby harming the living conditions of the occupiers of that property.
8. Furthermore it would result in the area to the rear of the main part of No 57 being significantly and harmfully enclosed, resulting in a harmful loss of outlook to the occupiers of that property. However, I am satisfied that as a single storey extension the proposal would not result in an overbearing effect.
9. However, the appellant could now construct an only slightly smaller extension under permitted development as agreed under the prior approval application. In the event that the appeal was dismissed, and although creating less accommodation than the proposal, I consider that there is a greater than theoretical possibility that this permitted development extension would be constructed. This would have the same effects on the living conditions of the occupiers of No 57. I give the possibility of this taking place substantial weight as there is nothing to prevent such an extension being constructed and it would provide the vast majority of the accommodation sought.
10. In light of this, although the proposed extension would have harmful effects on the living conditions of the occupiers of No 57, the same effects would take place if permitted development rights were utilised.
11. The Council has referred to a number of development plan policies which it considers that the proposal would contravene. 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, is 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 again is not contravened where any conflict relates the effect on the living

conditions of the occupier of the neighbouring property. Policy 7.5 of the LP relates to the public realm which is not affected by the proposal.

12. Turning to the Newham 2027: Newham's Local Plan – The Core Strategy (the CS) Policy SP1 deals with Borough-wide Place-making and seeks high quality development, which respects, takes advantage of, and enhances the positive elements and distinctive features of the borough; the proposal would not affect this. Policy SP2 of the CS relates to Healthy Neighbourhoods, and while ensuring appropriate living conditions is part of ensuring a healthy 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.
13. The proposal would, however, be contrary to Policy 7.6 of the LP in that it would cause unacceptable harm to the amenity of surrounding residential buildings in relation to overshadowing. It would also be contrary to Policy SP3 of the CS, which requires that development proposals will be expected to realise a high quality of urban design in the new buildings and spaces they create, in that it would not create a high quality space to the rear of No 57. It would also be contrary Policy SP8 of Newham 2027: Newham's Local Plan Detailed Sites and Policies Development Plan Document in that it would not ensure adequate access to daylight and sunlight in order to achieve neighbourliness. It would also be contrary to paragraph 17 of the National Planning Policy Framework (the Framework) which seeks a good standard of amenity for existing occupiers of buildings. However, I conclude that the fall-back position available to the appellant outweighs the harm I have found and consequently the appeal should be allowed.

Conditions

14. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
15. I have also imposed a condition requiring the materials for the proposal to match those on the existing building in order to ensure that the proposal is in keeping with the character and appearance of the area.
16. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

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

RJ Jackson

INSPECTOR