

Appeal Decisions

Site visit made on 25 April 2017

by Paul Freer BA (Hons) LLM MRTPI

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

Decision date: 25 May 2017

Appeal A Ref: APP/G5750/C/17/3169389

Land at 1 Spencer Road, East Ham, London E6 1HH

- 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 Mr Raja Ahmed against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 6 January 2017.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of a first floor rear extension.
 - The requirements of the notice are:
 - i) Demolish the extension.
 - ii) 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) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/G5750/W/17/3167629

1 Spencer Road, East Ham, London E6 1HH

- 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 Raja Ahmed against the decision of the Council of the London Borough of Newham.
 - The application Ref 16/02609/HH, dated 10 August 2016, was refused by notice dated 10 November 2016.
 - The development proposed is described as the retention of first floor rear extension.
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Summary Decisions: Appeal A is dismissed and the enforcement notice is upheld. Appeal B is dismissed.

Appeal A: The appeal on ground (a) and Appeal B

1. The appeal in ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The Council has stated two substantive reasons for issuing the enforcement notice, from which the main issues raised are:
 - the effect of the extension on the character of the host property and the surrounding area, and
 - the effect of the development on the living conditions of the occupiers of surrounding residential properties, specifically in relation to outlook, light and privacy.
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2. The extension subject to the enforcement notice is the same as that refused planning permission and now the subject of Appeal B. This appeal raises the same main issues identified above, and it is therefore convenient to consider the appeals together.

Character of the host property and the surrounding area

3. The appeal property is a two-storey terraced house located on the west side of Spencer Road. It is the end house in a terrace of similar properties on this side of Spencer Road, all of which are of modest size and similar form. As originally constructed, these houses featured two-storey outriggers that extended across some two thirds of the rear elevation. These outriggers are handed, such that there is a gap between the outriggers of alternate pairs of houses in the terrace. This pattern is repeated throughout the length of the terrace, such that the rear of the terrace exhibits a distinctive pattern and appearance. I noted that some of the properties in the terrace have been extended at ground floor level and, in some case, at first floor level also. Nevertheless, these examples are not numerous and do not undermine the overall character derived from the alternating pattern of outriggers and spaces that is a distinctive feature of this terrace.
4. The appeal property has previously been extended at ground floor level. The first floor extension subject to these appeals has been constructed partly above that extension, and follows the lines and roof profile of the original outrigger. However, by reason of its additional length and bulk, the first floor extension dominates the modest proportions of the original terraced house and as such represents an incongruous addition to the host property.
5. Moreover, again by reason of its additional length, the extension projects significantly beyond the outriggers of the houses as originally constructed. The additional length and bulk of the extension therefore disrupts and erodes the distinctive pattern of alternating outriggers and spaces of the terrace as originally constructed. Because this pattern of outriggers and spaces is a characteristic of this terrace, the first floor extension detracts from the character of the surrounding area of which the terrace forms a part.
6. I conclude that the first floor rear extension unacceptably harms the character of the host property and the surrounding area. The development is therefore contrary to Policies 7.1, 7.4 and 7.6 of The London Plan, as well as Policies SP1 and SP3 of the London Borough of Newham Core Strategy (Core Strategy). These policies require, amongst other things, that buildings should be of the highest architectural quality, and respect and enhances distinctive features of the borough. The extension also fails to accord with the Council's Supplementary Planning Guidance 'Altering and Extending Your Home', which indicates that new extensions should relate to the character of the existing house.
7. In relation to this main issue, the Council also cites Policies S6 and H1 of the Core Strategy in the reasons for issuing the notice and in the reason for refusing planning permission. However, on my reading, both of these policies relate primarily to the provision of new housing and for that reason are only of limited relevance to this main issue. Similarly, Policy SP8 of the London Borough of Newham Detailed Sites and Policies Development Plan Document (DSPDPD) is also cited but relates to primarily to neighbourliness and is therefore not directly relevant to this main issue.

Living conditions

8. The adjoining house in the terrace, No 3 Spencer Road, has been extended at ground floor level but not at first floor level. There is a clear-glazed window in the rear elevation of the outrigger to No 3 Spencer Road. By reason of its length, height, bulk and proximity to the boundary, I assess that the first floor extension dominates the outlook from that window and is unduly intrusive.
9. The Council also allege that the first floor rear extension would cause harm to neighbouring residential amenity by virtue of loss of daylight and sunlight. However, No 3 Spencer Road is to the south of the appeal property and the window in the rear elevation faces west. Moreover, I have been provided with no technical evidence to show that the extension results in an unacceptable loss of daylight or sunlight to that property. On the evidence available to me, I am not convinced that this in fact the case.
10. The first floor rear extension to the appeal property features a clear-glazed window in the rear elevation. As part of my site visit, I was able to view from inside the space created by the first floor rear extension. I observed that the window in the rear elevation affords a clear view into the rear half of the garden to No 3 Spencer Road, resulting in an unacceptable loss of privacy to the occupiers of that property and significantly reducing the amenity value of that space.
11. I acknowledge that the current occupier of No 3 Spencer Road has no objection to the extension. Nevertheless, I must have regard to the amenities provided by the property itself and subsequent occupiers may take a different view to that of the current occupier.
12. Being the end-of-terrace house, the flank elevation of the extension faces the rear elevations and gardens of the houses fronting onto Eversleigh Road. The rear gardens to those properties are relatively short. There is a clear-glazed window in the flank elevation of the extension, from where there is a clear view into the rear elevation of the houses in Eversleigh Road. The short separation distance is such that I was able to look into the habitable rooms in the rear of these properties. I was also able to look into a significant proportion of the rear gardens to several of the properties in Eversleigh Road. It was therefore apparent that the extension to the appeal property results in an unacceptable loss of privacy to the occupiers of the houses in Eversleigh Road, and also significantly reduces the amenity value of the garden space to those properties.
13. I conclude that the first floor rear extension unacceptably harms the living conditions of the occupiers of the adjoining residential properties, specifically in relation to outlook and privacy. The development is therefore contrary to Policy 7.1, 7.4 and 7.6 of The London Plan; Policies SP1 and SP3 of the Core Strategy; and Policy SP8 of the DSPDPD. These policies indicate, amongst other things, that all development is expected to achieve neighbourliness and does not cause unacceptable harm to the amenity of surrounding buildings.
14. As in relation to the previous main issue, the Council also cites Policies S6 and H1 of the Core Strategy in the reasons for issuing the notice and in the reason for refusing planning permission in relation to living conditions. For the same reasons set out above, I consider that these policies are only of limited relevance to this main issue and I afford them only limited weight in the particular circumstances of this case.

15. The extension also fails to accord with the Council's Supplementary Planning Guidance 'Altering and Extending Your Home', which indicates that two storey rear extensions will not normally be acceptable on terraced properties unless it can be shown that the extension does not adversely affect the adjoining properties by reason of overlooking and loss of privacy. I acknowledge that the extension subject to these appeals was not constructed as a two-storey rear extension but, taking into account the pre-existing extension at ground floor level, the principle remains relevant in this case.

Conclusion on the ground (a) appeal and Appeal B

16. I have found that the first floor rear extension fails to accord with the development plan. No considerations have been advanced by the appellant that are of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan. Consequently, I conclude that planning permission ought not to be granted for the first floor rear extension.

17. Accordingly, the appeal on ground (a) fails. Appeal B will be dismissed.

Appeal A: The appeal on ground (g)

18. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is three months.
19. The essence of the appellant's case on this ground of appeal is the period of compliance of three months is neither reasonable nor practical, as this does not allow the appellant sufficient time to raise finance to fund the works, to appoint a contractor to carry out the works and then to physically carry out the works. A period of nine months is sought.
20. As a generalisation, I can accept that it can be difficult to find a builder suitably qualified to carry out work of the required standard to a private dwelling. However, I have been provided with no evidence to support the appellant's contention that this is the case with the extension subject to the enforcement notice. For example, I have been provided with no evidence to show that suitably qualified builders have been found and approached but are unable to carry out the work within the required timescale due to other commitments. It also appears to me that the requirements of the notice are not especially complex or technical, such that they would require a specialist contractor to carry them out. I am therefore not persuaded that the appellant's concerns about being unable to instruct a suitably qualified builder to carry the works are sufficient to justify an extension to the period of compliance specified in the notice.
21. I acknowledge that the appellant may have difficulty in raising the finance to carry out the work, but I have been provided with no evidence to support that. In any event, neither the cost of carrying out the work nor the appellant's ability to pay are normally sufficient to justify an extension to the period for compliance.
22. Accordingly, the appeal on ground (g) fails.

Conclusion

23. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission.

Formal Decisions

Appeal A

24. The appeal is dismissed and 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

25. The appeal is dismissed.

Paul Freer

INSPECTOR