The Planning Inspectorate

Appeal Decision

Site visit made on 10 July 2017

by K R Saward Solicitor

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

Decision date: 13 July 2017

Appeal Ref: APP/G5750/C/17/3169130
135-137 Leystonstone Road, Stratford, London E15 1LH

- 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 Ashfakul Bari against an enforcement notice issued by the Council of the London Borough of Newham.
- The enforcement notice was issued on 16 December 2016.
- The breach of planning control as alleged in the notice is without planning permission the erection of a rear extension.
- The requirements of the notice are:-
  1. Demolish the extension (as shown edged in blue on the plan attached to the notice, and as shown edged in yellow on the photograph appended to the notice).
  2. On completion of step 1 above, remove all materials and debris from the site.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Procedural Matters

2. The Council has listed the planning policy statement on Green Belt protection and intentional unauthorised development[1] as a relevant policy within the enforcement notice. Whilst the Council maintains that there has been intentional unauthorised development, there is no evidence before me of a deliberate breach of planning control which should be weighed in the determination of the ground (a) appeal and deemed planning application.

3. The Council explains in its submissions why the extension would not be permitted development[2]. However, there is no appeal on ground (c) or any suggestion by the appellant that the extension might fall within permitted development limits. Similarly, there is no appeal on ground (d) and so the image and drawing produced by the Council to illustrate that the extension did not exist in 2012 have no bearing in this appeal. The appeal proceeds on ground (a) only.

[1] Issued in August 2015 & also laid in the House of Commons as a Written Ministerial Statement in December 2015
[2] Under Schedule 2, Part 1 , Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015

4. During the course of the appeal, the appellant produced two drawings, one titled 'existing elevations' and the other 'existing & proposed plans'. These serve to illustrate the internal layout and external appearance of the appeal property prior to construction of the extension. They are informative only.

Main Issue

5. At the site visit the Council Officer pointed out the proximity of the extension to the glazed patio style doors of an extension at neighbouring No 139 which appears to be in residential use. In its reasons for issuing the notice the Council has not explicitly identified any harm to the living conditions of any neighbouring occupiers in terms of their outlook. It suggests that the extension is 'un-neighbourly', but without further elaboration it is unclear what is meant by this.

6. In its Appeal Statement the Council describes the extension as having a dominating and intrusive presence within the rear garden and the finish being visually detrimental to neighbouring properties. There is no right to a view and so even though the extension is visible from neighbouring properties that does not of itself give rise to harm. Nor does it follow automatically that there must be harm to neighbouring outlook especially as those references are made in the context of the Council's case on character and appearance.

7. If the Council wished to rely upon a living conditions case then it should have made that plain in its reasons for issuing the notice or at least in its Appeal Statement. The appellant has not otherwise had opportunity to fully address the cause for concern and would be prejudiced if I were to now consider a case on neighbouring outlook. Accordingly, I shall confine my considerations to the one issue identified in the notice.

8. Thus, the main issue is the effect of the extension on the host property and the surrounding area.

Reasons

9. Leytonstone Road is a busy main thoroughfare composed predominantly of two storey properties. Many have commercial uses at ground floor and ancillary or residential uses above. This includes Nos 135-137 which has a vacant shop unit at street level fronting Leytonstone Road with residential accommodation at the rear and above. The appeal property is at the end of a terrace located on the corner of Leytonstone Road with Henniker Road which is mainly residential in character with two storey traditional terraced housing.

10. The terrace itself is a row of period properties with what appear to be original two storey projecting elements, or 'outriggers' at the rear. A number of properties in the row have been extended in a variety of ways. To some extent these additions have interrupted the stepped, rhythmic pattern of development to the terrace. Most notably, this has occurred at the appeal site where there is an existing large two storey extension. The single storey extension attacked by the notice fills a gap between the shared boundary with No 139 and the existing extension.

11. From aerial photographs and mapping resources the Council estimates the extension to measure approximately 4.8m in depth, 4.9m in width and 2m in height. These figures are undisputed by the appellant.

12. Reference is made by the Council to a previous appeal decision at 32 Latimer Avenue[3]. This is cited to support the Council's findings regarding the impact of the extension on the character and appearance on the host building and adjoining terraced properties. In that decision the Inspector referred to the close-knit relationship of the properties where residents tend to be mutually dependant on the maintenance of the openness to the rear of their dwellings in order to preserve their setting and outlook. Those comments were made in the context of an assessment of the extension in question upon neighbouring living conditions rather than the character and appearance. As such, the decision has little bearing in this instance.

13. The Council has also drawn my attention to two other appeal decisions. The rear extension in the 4 Credon Road appeal[4] was larger in height and depth than the existing appeal. Similarly, the rear extension in the appeal decision for 54 Bristol Road[5] was of greater depth than the extension which is the subject of this appeal. In view of the differences, direct comparisons cannot be drawn between these developments and the appeal.

14. In any event, each and every appeal must be decided on its individual circumstances.

15. In this particular case, the extension appears of poor quality construction and finish. It is in simple form with a partially translucent flat roof covering and outer facing wall clad with horizontal white plastic strips. It is a most unsympathetic addition that bears no correlation with either the architectural design or the materials of the host building. The overall effect is one of extremely poor design. Not only is this highly detrimental to the host property, but also to the terrace as a whole and the street scene along Henniker Road.

16. There are high metal railings beside the highway boundary in Henniker Road through which the extension is clearly visible from various vantage points. The white plastic finish draws the eye from distance and has a jarring impact in its surroundings. None of the other extensions visible in the terrace are comparable in appearance and utilise far more traditional materials.

17. Furthermore, by filling the gap to the side boundary with No 139, it causes the host property to be dominated by its extensions. The effect is exacerbated by the depth of the extension which causes it to appear as a bulky addition. Despite the presence of other extensions, no other property visible in the terrace has been extended to such a large degree.

18. Whilst the extension may serve the present purposes of the appellant without impacting on the remaining use of the property, those are not reasons to allow an extension which causes harm by virtue of its wholly unsatisfactory design and appearance.

19. I conclude that the extension has a very significant detrimental effect on the character and appearance of the host property and the surrounding area.

20. This is contrary to Policies SP1, SP3 and H1 of the Council's Core Strategy[6] (CS) and Policies 7.1, 7.4 and 7.6 of the London Plan, 2016 all of which seek

[3] Appeal Ref: APP/G5750/C/12/2173131 dated 28 December 2012
[4] Appeal Ref: APP/G5750/C/14/3000099 dated 24 August 2015
[5] Appeal Ref: APP/G5750/C/13/2204320 dated 10 December 2013
[6] Titled 'Newham 2027, Newham's Local Plan – The Core Strategy', adopted January 2012

high quality design. As national policy, the National Planning Policy Framework is also relevant. Paragraphs 17, 56 and 58 thereof similarly seek high quality design appropriate to its environment. I find no conflict with the aim for neighbourly development in Policy SP8 of the Council's Development Plan Document (DPD), 2016[7] given the lack of clarity on how such harm arises. The Council also cites CS Policy S6, but it is unclear how this is applicable.

Conclusion on ground (a) and the deemed planning application

21. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal on ground (a) and the application for deemed planning permission should fail.

KR Saward

INSPECTOR

[7] Newham's Local Plan, Detailed Sites and Policies Development Plan Document (DPD), 2016.