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## Appeal Decision

Site visit made on 18 July 2017

**by Richard McCoy BSc MSc DipTP MRTPI IHBC**

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

**Decision date: 07 August 2017**

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**Appeal Ref: APP/G5750/D/17/3177089**

**9 Warwick Road, Manor Park, London E12 6QP**

- 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 Mrs Nanette Johnson-Reid against the decision of the Council of the London Borough of Newham.
  - The application Ref 17/00344/HH, dated 23 January 2017, was refused by notice dated 21 April 2017.
  - The development proposed is to convert a recreational back extension room into a bedroom with en-suite wet-room (with shower, face basin, bidet) and passage into the garden. Conversion includes the raising the floor to meet the kitchen and also the roof to insulate both inside and outside walls.
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### Procedural matter

1. The appellant confirmed by email dated 19 June 2017 that she was content that the description "retention of rear extension" be used in place of the description of development provided on the application form. I observed that work has already commenced on site and I have dealt with the appeal on this basis.

### Decision

2. The appeal is allowed and planning permission is granted for a rear extension at 9 Warwick Road, Manor Park, London E12 6QP, in accordance with the terms of the application Ref 17/00344/HH, dated 23 January 2017, subject to the following condition:
  1. The building hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 90 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
    - i. Within 3 months of the date of this decision a scheme specifying the external finishes for the rear extension shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
    - ii. If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- iii. If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv. The development including the approved scheme shall have been carried out and completed in accordance with drawing nos. PL01 and PL03 and the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

### **Main Issues**

- 3. The main issues are the effect of the proposal on the character and appearance of the area and on the living conditions of the occupiers of nearby dwellings.

### **Reasons**

- 4. The appeal site is a mid-terrace dwelling located in a predominantly residential area. The development under consideration projects around 3 metres from an existing extension and has a height of around 3.4 metres. It spans the width of the garden at around 5.5 metres.
- 5. The Council is concerned that as built the extension is of a poor quality design and finish, and is visually incongruous. However, I observed that it is similar to an extension on the adjoining dwelling at no. 10 and that other nearby dwellings have also been extended to the rear, albeit to a shallower depth. Moreover, I note the appellant's argument that work on the extension was halted upon receipt of a letter from the Council and that the finish of the development could be made the subject of a suitably worded condition, were planning permission to be granted.
- 6. The rear of the appeal site is not readily seen from any public vantage points and in my judgement, the development given a suitable external finish, would not be incongruous or out of scale within the existing built development context at the rear of this terrace. Accordingly, the development would not conflict with Policies 7.1, 7.4 & 7.6 of the London Plan (LP) and Policies S6, SP1, SP3 & H1 of the London Borough of Newham Local Plan: Core Strategy.
- 7. Concerns were also raised that the development has resulted in a loss of outlook and overshadowing of the adjoining dwelling at no.8. However, as a ground floor extension that abuts an existing extension and tall fence to the rear of no. 8, I consider it unlikely that the development has harmfully changed the living conditions of the dwelling's occupiers in respect of these matters. Accordingly, in this regard, the development does not conflict with LP Policy 7.6 and Policy SP8 of the London Borough of Newham Local Plan: Detailed Sites and Policies Development Plan Document.
- 8. I have taken account of the Council's argument that the grant of planning permission would set a precedent for other similar developments. However, each proposal must be determined on its own individual merits and given the site specific considerations in this instance in terms of the main issues

identified above, I do not consider that such a generalised fear of precedent is central to my decision.

9. I have considered the conditions suggested by the parties in the light of the tests and advice within the National Planning Policy Framework and the Planning Practice Guidance. Given development has commenced I do not intend to impose the standard time limit condition for commencement. Furthermore, I have set out the matters relating to the submitted plans and external finishes in Condition 1 above.
10. The purpose of the condition is to require the appellant to comply with a strict timetable for completing the development in accordance with the submitted plans and for dealing with external finishes which need to be addressed in order to make the development acceptable. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place.
11. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the development is not completed in accordance with the submitted drawings and detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority ("LPA") or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission falls away.
12. For the reasons given above, I conclude that the appeal should be allowed.

*Richard McCoy*

Inspector