
Appeal Decisions

Site visit made on 1 October 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 October 2019

Appeal A: APP/G5750/C/18/3215958, Appeal B: APP/G5750/C/18/3215959, Appeal C: APP/G5750/C/18/3215960, Appeal D: APP/G5750/C/18/3215961.
Land at 11 Carlyle Road, London E12 6BL

- 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 appeals are made by Mr Mohammad Siddique (Appeal A), Mrs Bushra Siddique (Appeal B), Miss Safia Siddique (Appeal C) and Mr Mohammed Aqueel (Appeal D) against an enforcement notice issued by the Council of the London Borough of Newham.
- The enforcement notice was issued on 19 October 2018.
- The breach of planning control as alleged in the notice is without planning permission the erection of an extension.
- The requirements of the notice are: -
 1. Demolish the extension (as shown edged in blue on the attached plan, and as shown edged yellow on the photograph attached at Appendix 1).
 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.
- Appeal A is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act). All of the above appeals have been made on ground (a) and it is only necessary to pay one fee in order for an appeal on ground (a) and the application for planning permission to have been deemed to have been made under section 177(5) of the 1990 Act. As such, the applications for planning permission deemed to have been made in relation to Appeals B, C and D have lapsed.

Appeal E: APP/G5750/W/18/3215947
11 Carlyle Road, London E12 6BL

- 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 Mohammad Siddique against the decision of the Council of the London Borough of Newham.
- The application Ref 18/02500/HH, dated 1 September 2018, was refused by a notice dated 8 October 2018.
- The development proposed is described as '*ground floor rear extension of 5.5 metres from original rear wall. This is 2 metres from existing extension.*'

Formal Decisions

Appeal A:

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

Appeal E:

2. The appeal is dismissed.

Preliminary Matters

3. Subsequent to the issuing of the enforcement notice and the refusal of permission for the development the Newham Local Plan 2018 (LP) was adopted in December 2018. It replaces the London Borough of Newham Local Plan: Core Strategy (January 2012) and London Borough of Newham Local Plan: Detailed Sites and Policies Development Plan Document (October 2016). I have therefore dealt with the appeals on the basis of the up to date policies in the adopted plan. The policies in the LP were carried forward from the Newham Local Plan: Secretary of State Submission Version (February 2018) with Proposed Main and Minor Modifications (July 2018) (draft LP) as referred to in the enforcement notice and the reasons for refusal.
4. The Council's reasons for refusal referred to policies in The Draft London Plan: The Spatial Development Strategy for Greater London (Draft for Consultation December 2017 with minor suggested changes July 2018) (Draft London Plan). Given the current status of the Draft London Plan, I have given it minor weight in my consideration of the appeals.
5. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeals were lodged. However, the sections relevant to them have not materially altered. As such, in the circumstances of these cases I do not consider that it is necessary to seek the further views of the parties. I am required to consider the appeals on the basis of the current Framework.
6. There is no dispute that the extension proposed as part of the above planning application has been constructed and is the same extension cited in the enforcement notice. I have dealt with the appeals on this basis.

Main Issues - Appeal A on ground (a) and Appeal E (s78 appeal)

7. The main issues are: -
 - The effect on the character and appearance of the host dwelling and the surrounding area;
 - The effect on the living conditions of the occupiers of 13 Carlyle Road (No 13) with regard to outlook, daylight and sunlight.

Reasons

Character and appearance

8. The appeal dwelling is a 2-storey mid terrace with a 2-storey outrigger to the rear and single storey extensions attached to the outrigger. Other properties in the terrace are of similar design and I noted at my site visit that a number of dwellings in close proximity to the site have single storey rear extensions that project beyond the outriggers. However, in most cases these extensions do not appear to fill the full width of the plots. The garden to the dwelling is 'L' shape as it extends to the rear of No 13's garden.
9. The extension that is before me is single storey with a flat roof and it extends across the full width of the dwelling and abuts the boundaries with the adjoining dwellings. It wraps around part of the outrigger and a single storey extension that had previously been constructed to the rear of the outrigger and

- it is attached to a single storey extension that had previously been constructed between the outrigger and the boundary with No 13.
10. The footprint of the recently constructed extension itself is not substantial. Nevertheless, it physically and visually combines the previously constructed separate single storey extensions into one large extension that coincides with the majority of the side garden boundary with No 13. Despite the use of render which is similar to that used elsewhere on the dwelling the bulk and massing of the resultant extension is dominant and prominent particularly when viewed from the gardens of the appeal dwelling and the adjacent dwellings. Moreover, the parapets and overhanging eaves detail to the rear elevation exacerbate the visual prominence of the extension.
 11. The impact of the development on the character and appearance of the wider area when viewed from the public realm is limited. Nonetheless, the harmful effect of the structure will be apparent from the neighbouring properties and I can find nothing in local and national planning policy to suggest that the requirement for high quality design only applies to development that is visible from within the public realm.
 12. The appellant refers to the fact that extensions on similar types of houses, including 7 Carlyle Road, have been built or approved in the surrounding area. The full details of them are not before me and such developments tend to be determined upon individual site circumstances. Furthermore, nothing that I saw persuaded me that the development subject of this appeal is acceptable in this location. I have, in any case, determined the appeal on its own merits.
 13. Whilst reasonably localised in its extent, the effect of the development diminishes unacceptably the character and appearance of the host building with consequent harm to the character and appearance of the surrounding area. The development is therefore contrary to policies in the development plan, the most relevant being Policies 7.4 and 7.6 of the London Plan -The Spatial Development Strategy for London Consolidated with Alterations Since 2011 (March 2016) (the London Plan), which deal with local character and architecture, as well as with LP Policies SP1 and SP3 which respectively deal with place-making and quality urban design.
 14. It also conflicts with Policies D1 and D2 of the Draft London Plan, which deals with London's form and characteristics and delivering good design and paragraph 127 of the Framework which, amongst other things states that planning decisions should ensure that developments are sympathetic to local character including the surrounding built environment.

Living conditions

15. The adjoining dwelling, No 13, has a rear facing window on the ground floor of its main rear elevation, which is in close proximity to the boundary with the appeal dwelling. The outlook from that window would only have had a partially open aspect, before the recently constructed extension was erected, as it's outlook was appreciably restricted by the flank wall of 11 Carlyle Road's (No 11) single storey extension to the side of the outrigger, and the outriggers on No 11 and No 13. However, there would have been an open aspect over and above the boundary treatment to its garden.

16. The flank wall of the appeal extension in combination with the flank wall of the side extension means that the resultant flank wall extends for the majority of the length of the side boundary to the garden of No 13. In addition, it is substantially taller than a boundary treatment that could be erected without planning permission under permitted development rights. Consequently, I consider that due to its height and the overall length of the resultant extension that it is likely that it could be experienced by occupiers of No 13 from their rear window and when in their garden as overbearing.
17. The Council's Officer Reports relating to both appeals make no distinction between sunlight and daylight and they do not include any technical evidence such as sunlight or daylight analysis in relation to this matter. The ground floor window in the rear elevation of No 13 faces approximately north-west and as the extension is to the west of the window it is likely that there is a loss of direct sunlight at certain times of the day received in that room.
18. However, the position and height of the older extension and the orientation of the neighbouring dwellings would have influenced light penetration to the rear of No 13 prior to the new extension being constructed. On balance, I consider that the additional loss of sunlight resulting from the new extension is not so great as to be appreciable. Moreover, given the distance between the new extension and that it is beyond the older extension the development is not likely to significantly reduce the amount of daylight received in the rear facing window. No technical evidence has been submitted, but my assessment of the appeal site and its relationship to the development lead me to conclude that it is likely that the new extension does not significantly overshadow the rear facing window of No 13.
19. I recognise that the present occupiers of No 13 have written a letter to highlight that they do not object to the development. However, the lack of objection from them does not outweigh the harm caused by the development. The appellant has also referred to an application for 2 single storey extensions to the rear of No 13 that has been validated by the Council. However, I have not been provided with the full details of that application or any decision attached to it. As such, I can give it little weight in the determination of these appeals.
20. I conclude that the extension causes material harm to the living conditions of the occupiers of No 13 with regard to outlook. It follows that the development conflicts with the most relevant policies of the development plan, which are London Plan Policy 7.6 and LP Policy SP8 which relates to ensuring neighbourly development.
21. It also conflicts with Policy D1 of the Draft London Plan and paragraph 127 of the Framework which, amongst other things, states that planning decisions should ensure that developments create places with a high standard of amenity for future users.

Other matters

22. I acknowledge that that the limitation at A.1(g) of Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) is no longer for a time limiting date. Nonetheless, there is no evidence before me to indicate that the extension as

built is not a breach of planning control or that prior approval has been granted by the Council for an extension to No 11 that would meet the limitations of Class A. Therefore, I give this matter little weight.

23. I appreciate that the appellant undertook the works in good faith and did not seek to flout the planning regulations. However, this point has not affected my decisions, which are based on the planning merits of the development.

Conclusions – Appeal A

24. For the reasons given above, and having taken account of all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Appeal E

24. For the reasons given above I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR