



Appeal Decision

Site visit made on 21 January 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2020

Appeal Ref: APP/G5750/D/19/3240350

63 Waghorn Road, Upton Park, London E13 9JG

- 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 A Peshavaria against the decision of the Council of the London Borough of Newham.
 - The application Ref 19/01723/HH, dated 19 June 2019, was refused by notice dated 9 August 2019.
 - The development proposed is described as: 'The proposed erection of a garden room outbuilding at the rear of the back garden'.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a garden room outbuilding at the rear of the back garden at 63 Waghorn Road, Upton Park, London E13 9JG in accordance with the terms of the application, Ref 19/01723/HH dated 9 June 2019, subject to the conditions below:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1905/A105A; 1905/A110 and 1905/A315A.
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or other openings shall be constructed on the side and rear elevations of the proposed development.

Procedural Matter

2. For clarity and precision, I have inserted the initial 'A' to the name of the appellant in the banner heading above as it is listed on the appeal form.

Main Issues

3. The main issues of this appeal are the effect of the proposed development on:
 - the character and appearance of the appeal site and surrounding area; and,
 - the living conditions of neighbouring occupiers at No's 61 and 65 Waghorn Road, and No 68 Orwell Road, with particular regard to dominance and outlook.

Reasons

Character and appearance

4. The appeal site comprises a 2-storey mid-terraced house on a residential street. The host property forms the end of a series of 4no dwellings that were constructed later than the majority of the houses on Waghorn Road. Additionally, the host property benefits from an attached single garage to its side, which adjoins No 61.
5. The scheme is for an outbuilding that would form ancillary accommodation to the main dwelling. To the rear of the property is a generous rear garden, which is bounded either side by No's 61 and 65, and to the rear by No's 68 and 70 Orwell Road. A small section of the rear boundary adjoins a passageway that also serves No 66 Orwell Road.
6. The site is not easily viewed from public areas, due to the surrounding built environment and terraced nature of the housing. During my visit, I noted that a number of neighbouring dwellings, including No's 59 and 69 Waghorn Road in the immediate locality of the site, benefitted from notable detached single storey buildings located towards the rear of their gardens.
7. I note the concerns raised by the Council in respect of the proposed development. However, I find that due to the length and width of the rear garden, the footprint of the outbuilding would not be excessive when compared to the site. Although, the host property benefits from a larger plot when compared to its neighbours, it would still be single storey and subservient to the main house.
8. Additionally, I note that concerns have been raised by the Council in respect of the use of red brick as a facing material in the construction of the outbuilding. However, I do not find that the use of this material, nor the red roof tiles or fenestration details to be harmful, as the existing outbuildings at neighbouring properties are constructed out of a variety of materials, and due to the overall limited visual effect that the proposal would have on the street scene.
9. For the reasons given above, I consider that the proposed development would not have a significant harmful effect on the character and appearance of the appeal site and surrounding area. Thus, the proposal would accord with the design, character and appearance aims of Policies SP1, SP3 and SP8 of the Council's Local Plan 2018 (LP); Policies 7.4 and 7.6 of the London Plan 2016 (LonP); Policies D1 and D7 of the emerging London Plan (the emerging LonP). Additionally, it would accord with the guidance contained within the Council's Altering and Extending Your Home Supplementary Planning Document 2018 (SPD) and the requirements of the National Planning Policy Framework (the Framework).
10. LonP Policy 7.5 has been cited by the Council in its decision notice. However, this policy relates to public realm and therefore I find it is not directly applicable to the case before me.

Living conditions

11. The Council raises no concerns regarding the effect of the proposal on No's 66 and 70, and based on the evidence before me and my findings during the site

visit, I have little reason to disagree with this observation, especially in the absence of any substantive evidence to the contrary.

12. The proposed development would be located at the rear of the garden at the host property and would extend to its full width. The proposed outbuilding would be single storey in form and would have a dual pitched roof with a gable end located on either side of the building facing the rear section of the gardens of No's 61 and 65. I note that letters of support have been submitted by the appellant with his submission from the occupiers of No's 61 and 65. As these letters are from the occupiers of the adjoining houses, I consider them to represent a material consideration in the determination of this appeal.
13. The proposed structure would have a depth of 5.1m and a height of 2.5m to the eaves and 3.5m to the ridge. I note that the rear gardens of the host property and No's 61 and 65 have a southerly aspect, which the Council acknowledges. I find the orientation of these gardens would provide additional mitigation to further prevent any harm from the proposed development, especially with regards to loss of sun light.
14. In any event, even though the proposed development would be sited on, or very close to the shared boundaries with neighbouring gardens, I find that given the proposed dimensions and design of the scheme, I am not convinced that it would result in any significant harmful effects to the living conditions of the occupiers of No's 61, 65 or 68. Furthermore, in the case of No 68, the roof would pitch away from its boundary.
15. Additionally, I consider that the rear gardens of all adjoining neighbouring properties to be generous in size. Although, the host property has a garden of increased width, than those of its neighbours, this difference in garden size would not be significant enough to create any adverse issues from the proposed development. Thus, I find that the proposal would not create an unacceptable level of enclosure or be over dominant in its scale and massing, nor would the scheme adversely affect the outlook currently afforded by neighbouring occupiers from their habitable room windows or within their garden areas.
16. For the reasons given above, I consider that the proposed development would not have a significant harmful effect on the living conditions of neighbouring occupiers at No's 61 and 65 Waghorn Road, and No 68 Orwell Road, with particular regard to dominance and outlook. Thus, the proposal would accord with the amenity aims of LP Policies S6, SP1, SP2, SP3, SP8 and H1; LonP Policies 7.1, 7.4 and 7.6; the emerging LonP Policies D1 and D2. Additionally, it would accord with the guidance contained within the SPD and the requirements of the Framework.

Other Matters

17. The appellant has brought to my attention permitted development¹ for an outbuilding as fallback. In order to establish the validity of the fallback position it is necessary to first establish whether there is a greater than theoretical possibility that the fallback may take place. However, no details of such a scheme is before me and without such information a full and detailed comparison with the case before me cannot be drawn. Additionally, at no point

¹ Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO)

does the appellant indicate that in the event of this appeal being dismissed the fallback would be pursued. As a consequence, I find reference to the GPDO in this instance to have limited weight in the determination of the appeal. In any event, I have considered the proposed development on its own merits and concluded there would be no harm for the reasons set out above.

Conditions

18. In addition to a condition relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans is necessary.
19. The appellant has suggested removing permitted development rights restricting the insertion of windows and openings to the side and rear elevations on the proposed development to ensure that the level of amenity afforded by neighbouring occupiers is maintained. I consider that such a condition is reasonable and necessary in this instance due to the proximity of the proposed outbuilding to these neighbouring properties.

Conclusion

20. For the reasons given above, the appeal should succeed.

W Johnson

INSPECTOR