



Appeal Decision

Site visit made on 18 January 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2022

Appeal Ref: APP/G5750/W/21/3278997

107 Shakespeare Crescent, London E12 6LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Mirza Baig against the decision of the Council of the London Borough of Newham.
- The application Ref 21/00812/HH, dated 3 April 2021, was approved on 23 June 2021 and planning permission was granted subject to conditions.
- The development permitted is "Erection of single storey rear extension to existing garage/store located at front of property, and conversion for use ancillary to host property".
- The condition in dispute is No 2 which states that:
"The development hereby approved shall only be carried out in accordance with the approved plans and documents listed below:
 - Drawing Title: Site/Block Plan – Date Received to the Council: 04.04.2021
 - Drawing Title: Site Location Plan – Date Received to the Council: 04.04.2021
 - Drawing Title: Existing and Proposed Ground Floor Plan – Drawing No: 2021/107/01A – Dated: 04.2021 – Date Received to the Council: 22.06.2021
 - Drawing Title: Existing and Proposed Front and Rear Elevation – Drawing No: 2021/107/02 – Dated: 04.2021 – Date Received to the Council: 22.06.2021
 - Drawing Title: Existing and Proposed Side Elevation – Drawing No: 2021/107/03A – Dated: 04.2021 – Date Received to the Council: 22.06.2021No other drawings or documents apply."
- The reason given for the condition is:
"To ensure that the development is undertaken in accordance with the approved drawings and documents to ensure that the finished appearance of the development will enhance the character and visual amenities of the area and to satisfactorily protect the residential amenities of nearby occupiers."

Decision

1. The appeal is allowed and the planning permission Ref 21/00812/HH for "erection of single storey rear extension to existing garage/store located at front of property, and conversion for use ancillary to host property" at 107 Shakespeare Crescent, London E12 6LW granted on 23 June 2021 by the Council of the London Borough of Newham, is varied by deleting condition 2 and substituting for it the following condition:
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site/Block Plan (Plan Reference Number TQRQM21093123535577, dated 3 April 2021, received by Council on 4 April 2021)
 - Site Location Plan (HM Land Registry Title No NGL111930, copy dated 29 April 2021, received by Council on 30 April 2021)

- Existing & Proposed Floor Plan (Drawing No 2021/107/01, dated April 2020, received by Council on 30 April 2021)
- Existing & Proposed Front & Rear Elevation (Drawing No 2021/107/02, dated April 2020, received by Council on 30 April 2021)
- Existing & Proposed Side Elevation (Drawing No 2021/107/03, dated April 2020, received by Council on 30 April 2021)

Procedural Matter

2. In the banner heading and my formal decision above I have used the description of development from the Council's decision notice, as it more accurately reflects the scheme than that on the original application form.

Background and Main Issues

3. Planning permission has been granted for an extension to an existing garage and storage building at 107 Shakespeare Crescent, and its use as a home office ancillary to the main dwellinghouse. The grant of planning permission was subject to several conditions, one of which defines the approved plans. The appellant now seeks to modify the approved plans condition, so that it refers to a set of drawings originally submitted with the planning application, but which were superseded while the application was being determined.
4. The Council's appeal statement indicates that it considers that the development would, if built to the initial plans, be overbearing and result in a loss of outlook for occupiers of the neighbouring property at No 105 Shakespeare Crescent. It also states that the reduction in depth had originally "been requested under design considerations, through providing a more subservient design".
5. Based on all the information before me, I therefore consider that the main issues in this appeal are the effects of modifying the disputed condition on:
 - Living conditions for occupiers of No 105 Shakespeare Crescent, with particular regard to loss of outlook and whether or not the extension would be overbearing; and
 - The character and appearance of the area.

Reasons

6. The appeal property is a semi-detached house which, along with its "twin" at No 109, is set on the east side of Shakespeare Crescent. They occupy a gap between Nos 105 and 111 in a street otherwise characterised by long terraces of two-storey properties with very short front gardens. By the standards of the area the pair have relatively long front gardens which include separate garages. The garage of the appeal property adjoins the side wall of No 105 to the south.
7. The original planning permission allows an extension to be built at the rear of the garage, and for the garage to be used as a home office ancillary to the main dwellinghouse. In the approved scheme, the rear extension would project by approximately 2m beyond the existing rear wall of the garage, such that it would finish flush with the main rear elevation of No 105. The appellant now wishes to revert to superseded versions of the plans, under which the

extension would be around 3m long; it would therefore extend approximately 1m beyond the rear elevation of No 105.

Living conditions

8. The proposed larger garage extension would be built reasonably close to a ground floor bay window on the rear of No 105. As a result, the Council is concerned that it would be overbearing and would harmfully reduce outlook from that neighbouring property.
9. The appeal property and the rear yard or garden of No 105 are separated by a concrete panel fence. While I have not been provided with precise measurements in respect of the relationship between the proposed extension and the rear bay window at No 105, I saw on my site visit that the fence rises to around half the height of the windowpanes. There is also an outrigger extension on the far side of the bay window, so to some extent the outlook from the angled side windows of the bay is already partially constrained.
10. The proposed extension would, I estimate, rise to around three quarters of the height of the bay window, and given the proximity between the two it would be visible from within No 105. However, because of the relatively limited depth and height of the proposed extension, its overall impact on outlook from the rear of No 105 when compared to the current situation would be minimal. This is especially so because, while it would be seen through the angled side bay window, the outlook from the main rear window on the bay would be unaffected by the proposal. I therefore consider that the longer extension sought by the appellant would not cause an unacceptable loss of outlook for occupiers of No 105. Because of its modest size, as well as its siting behind the concrete fence, while the extension would be visible from the rear of No 105, it would also not be unacceptably overbearing.
11. I conclude that modifying the disputed condition would not cause unacceptable harm to living conditions for the occupiers of No 105 Shakespeare Crescent. Although the Council provided me with a range of development plan policies, it did not specify those with which it considered the amended scheme would conflict. Based on my reading of the supplied policies I consider the most relevant ones to be Policies SP2, SP3 and SP8 of the 2018 Newham Local Plan, and Policy D3 of the London Plan 2021, which among other things seek to ensure that development provides a good quality living environment, and avoids harmful overshadowing, loss of daylight or overbearing impacts for neighbours. I find that varying the disputed condition would not result in conflict with any of these policies.

Character and appearance

12. The proposed extension would have a flat roof at a maximum height of around 2.5m, continuing the form of the existing garage. Two existing windows on the side of the garage would be retained, and a new door and window (essentially replicating the size and siting of those on the existing rear elevation) would be installed on the rear. Materials and finishes would match the existing garage.
13. The Council considered that the scheme allowed by the original planning permission would be appropriate in terms of overall siting, scale, bulk and massing. The effect of varying Condition 2 would of course be to allow an extension which would be 1m or so longer than that already permitted.

However, based on all the evidence before me and my observations on site, I consider that this extra length and volume would be barely discernible from public spaces. It could potentially be seen by occupiers of the neighbouring properties on either side, but I saw on my site visit that the area is one where rear extensions of various widths, heights and lengths are commonplace. In this context, the visual impact of the additional depth which the appellant seeks would be negligible, and the extension would remain subservient to the original buildings on and around the site.

14. I am therefore satisfied that varying the disputed condition would not cause unacceptable harm to the character and appearance of the area. Again, the Council did not draw my attention to any specific policy conflict which it considered might arise from amending the planning permission. However, of those provided to me I consider Policies SP1 and SP3 of the 2018 Newham Local Plan, and Policies D1 and D3 of the London Plan 2021, to be most relevant. Among other things these policies together seek to ensure that development respects local context and character. I find that varying the disputed condition would not result in conflict with any of these policies.

Other Matters

15. The appeal form and appeal statement submitted by the appellant assert, though I paraphrase slightly, that he did not agree with the amendments made to the original planning application by his architect. It is clear however, from the evidence provided by the Council in the form of e-mail exchanges from June 2021, that the appellant was aware of the nature of the changes to the scheme which the Council sought, and that he authorised the Council to deal directly with the architect on the matter. Given that the appellant's submissions could be interpreted as including a degree of "finger pointing" in this respect, I understand why the Council addressed it in its statement. However, I have determined the appeal based entirely on the planning merits of the amended proposal for which the appellant now seeks permission; for the reasons set out above I have found it would not cause unacceptable harm.
16. The original planning application was dated 3 April 2021, validated on 3 May 2021, and the decision was dated 23 June 2021. The e-mail exchange about revised plans took place on 18 and 19 June 2021, and revised plans submitted on 22 June 2021, the day before the decision. It is quite clear therefore that, as well as being notified of this appeal, the site's neighbours would have been consulted on the original plans for the longer extension, and none objected. I am therefore satisfied that no party's interests have been prejudiced by my allowing this appeal.

Conclusion

17. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition and substituting for it an amended Condition 2 as stated in my decision. The other conditions on the planning permission remain unaltered.

M Cryan

Inspector