



Appeal Decision

Site visit made on 15 November 2022

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st DECEMBER 2022

Appeal Ref: APP/U5930/C/21/3284898

Land at 59 Westward Road, London E4 8LZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Reshat Lusha against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The notice was issued on 17 September 2021.
 - The breaches of planning control as alleged in the notice are without planning permission:
 1. The construction of a single storey detached outbuilding.
 2. The construction of a wrap-around single storey side and rear extension.
 - The requirements of the notice are, either: 1. Demolish and remove the wrap-around single-storey side and rear extension in its entirety, or 2. Alter the single-storey rear extension and single storey side extension so that they comply with all conditions and limitations of Schedule 2; Part 1; Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). 3. Demolish and remove the additional height of the outbuilding so it is no higher than 2.5 metres and therefore complies with the conditions and limitations of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). 4. Remove all resulting materials, rubble and general detritus from the land following compliance with steps 1 to 3 above.
 - The period for compliance with the requirements is three 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 section 177(5) of the Act.
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Decision

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 as amended.

Ground (a) appeal

Main Issues

2. The main issues in this appeal are:
 - The effect of the unauthorised wrap-around single storey side and rear extension and the unauthorised outbuilding on the living conditions of the occupiers of adjoining residential property, having regard to outlook and natural light.
 - The effect on the character and appearance of the area.

Reasons

Living conditions

3. The appeal property contains a two-storey, end of terrace dwelling. The single storey side and rear extension protrudes in excess of 5 m beyond the original rear elevation of the dwelling. It also protrudes a similar distance from the original rear elevation of the neighbouring attached property, 61 Westward Road (No 61). Furthermore, the extension protrudes well beyond the rear elevation of the modest lean-to conservatory at No 61. The side walls of the extension are immediately adjacent to the property boundaries and have an overall height upwards of around 2.7 m.
4. The extension has therefore introduced a solid masonry wall of substantial overall depth and height in proximity to the ground floor windows, the conservatory and part of the rear garden at No 61. The extension is undoubtedly experienced as a dominant built feature in outward views from the ground floor windows at the rear of No 61 and in the conservatory, as well as in the closest part of the rear garden. The extension is considerably taller than a typical boundary enclosure between rear gardens. From No 61, the extension has a much greater visual presence compared to the wall adjacent to the boundary with the property, also recently erected. As a result, the extension has significantly eroded the more open aspect previously enjoyed by the occupiers of No 61 and it has created a relatively restrictive outlook with an appreciably stronger, oppressive sense of being largely enclosed by substantial built form.
5. The rear elevations of the property and adjoining dwellings are orientated to the south. Nevertheless, it is highly likely that the presence adjacent to the boundary of a solid built feature of such overall height and depth as the extension has led to an appreciable erosion in the levels of natural light previously enjoyed by the occupiers in ground floor rooms at the rear of No 61 and in their conservatory. This is especially likely to be the case in the earlier part of the day, particularly during the winter months, and is also likely to have led to an increase in overshadowing.
6. Moreover, the extension does not take account of advice concerning neighbourliness and the detailed design principles for rear extensions, set out in the Council's Residential Extensions and Alterations Supplementary Planning Document (SPD). In particular, the extension exceeds the recommended 3 m maximum depth in that document and is likely to intrude substantially into the line taken at 45 degrees from the edge of the nearest ground floor window at No 61. The deficiencies of the extension when assessed against the SPD advice aimed at safeguarding neighbours' amenity reinforces my findings set out above.
7. I acknowledge that the adjoining property at 57 Westward Road (No 57) has been enlarged at the rear at some stage, as have a number of other nearby properties. In accumulation, the rear enlargements at No 57 protrude further from the original rear elevation of that dwelling than this extension. Even so, the majority of the enlargements of dwellings in the vicinity did not protrude anywhere nearly as far from the rear elevations and they were considerably smaller in scale. Moreover, in the absence of further details it is unclear whether any of those enlargements were erected in circumstances which compared with the extension. For example, the properties in question could

have been enlarged in the context of different local and national planning policies, or the enlargements may not benefit from planning permission. The mere existence of similar enlargements is not a good reason for approving unacceptable development, as it could be repeated.

8. The outbuilding has had a limited effect in terms of eroding the levels of outlook and natural light previously enjoyed by the occupiers of adjoining residential property, its substantial overall size, bulk and height as perceived from such property notwithstanding. This is largely due to the location towards the end of the ample-sized rear garden and the significant separation from the rear elevations of the adjacent dwellings. However, that makes little difference to my findings in respect of the extension.
9. Consequently, the extension has significantly and unacceptably eroded the levels of outlook and natural light previously enjoyed by the occupiers of adjoining residential property, causing unacceptable harm to their living conditions. The above fails to accord with criterion in Policy DM4 of the Council's Development Management Policies Local Plan (LP), as the occupiers of nearby property have not been protected from an excessive loss of residential amenity. It also does not accord with criterion in LP Policy DM29 and LP Policy DM32, as natural light and outlook are not maintained for neighbouring occupiers in their homes and gardens. In addition, by not providing a high standard of amenity for existing and future users the extension is inconsistent with paragraph 130(f) of the National Planning Policy Framework (the Framework).

Character and appearance

10. The property is located in an established residential area in which the dwellings exhibit considerable similarity in terms of their architectural style and external finishes. The dwellings are generally neatly arranged close together in terraces and they occupy ample-sized rectilinear plots. These factors all contribute to the pleasant and cohesive residential character and appearance of the surrounding area.
11. The extension footprint occupies a relatively small portion of the rear garden, whilst the highest part of the roof sits well below the cill level of first floor windows in the rear elevation of the dwelling. The external wall finishes are similar to those of the dwelling. The part of the extension wrapping around the side of the dwelling is aligned with the principal elevation. Once completed this side part of the extension would have a lean-to roof treatment at the front aligning with the ground floor canopy, a key feature of the principal elevation of this and adjoining dwellings. Similar finishes to those of the canopy could be employed. There is little obvious change to the balanced appearance at the front of this and neighbouring dwellings and the sense of space between groups of properties in the street scene. Consequently, whilst the side part is not set back from the principal elevation by 1 m as per the advice in the SPD, the extension nevertheless appears as a subservient addition which integrates visually with the dwelling and the pattern of surrounding development.
12. The detached outbuilding has been erected adjacent to a private access also serving nearby properties. I am given to understand that prior to erecting the outbuilding, there was already a structure located towards the end of the rear garden. The outbuilding is substantially larger in scale than the pre-existing structure and has a much more extensive footprint. Whilst part of the pre-

existing structure remains in situ, what has been erected is substantially a 'new' outbuilding.

13. A number of the adjoining properties contain similarly-sited detached outbuildings of varying design, scale and materials. For the most part, the majority of the adjoining structures are of modest proportions and they have a reasonably low profile. These factors together with the largely open rear gardens contribute to a spacious feel in the locality. However, the outbuilding sits across almost the full width of the property and extends further into the rear garden. Moreover, with an overall height in excess of around 2.8 m the outbuilding is quite tall compared to most outbuildings in the environs and the upper walls and roof structure appear significantly above adjacent boundary treatments. Due to its substantial overall size, bulk and height, the outbuilding is viewed as an alien feature in its surroundings, significantly eroding the sense of spaciousness at the rear of the properties and creating an appreciably more built-up feel in the locality. Few outbuildings in the vicinity occupy a similar footprint or are of a similar scale. This has resulted in unacceptable harm to the character and appearance of the area.
14. The failure of the outbuilding to respect the character of the area does not accord with other criterion in LP Policy DM4, whilst by not reinforcing local character and distinctiveness there is also failure to accord with criterion in LP Policy DM29. By not responding positively to the local context and character, the outbuilding does not accord with criterion in Policy CS15 of the Council's Core Strategy. The outbuilding is not consistent with the SPD, as there has been insufficient account taken of the advice therein concerning outbuildings and general design principles. Also, by not achieving a well-designed place, the outbuilding is inconsistent with chapter 12 of the Framework. However, there is no direct failure to accord with Policy D4 of the London Plan, which sets out the overall strategy for delivering good design in the capital.

Other Matters

15. As a reasonably-sized facility could be created in an extension of more modest scale, the requirement for a kitchen at the property carries limited weight.
16. This appeal is concerned solely with the planning merits of the unauthorised extension and outbuilding. Therefore, the Council's handling of applications made in respect of those developments is not a matter which I am able to consider.

Conclusion

17. The extension has caused unacceptable harm to the living conditions of occupiers of adjoining residential property, whilst the outbuilding has caused unacceptable harm to the character and appearance of the area. This does not accord with the Development Plan and is inconsistent with the SPD, as well as the Framework. Therefore, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Stephen Hawkins

INSPECTOR