



Appeal Decision

Site visit made on 29 November 2022

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 JANUARY 2023

Appeal Ref: APP/G5750/D/22/3304043

114 Second Avenue, Manor Park, Newham, London, E12 6EL

- 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 Li, Hamilton Investments Limited against the decision of the London Borough of Newham.
 - The application Ref 22/00992/HH, dated 25 April 2022, was refused by notice dated 7 July 2022.
 - The development was originally described as a ground floor single storey infill side extension.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a ground floor side infill extension at 114 Second Avenue, Newham, London, E12 6EL in accordance with the terms of the application, Ref 22/00992/HH, dated 25 April 2022, and the plans submitted with it.

Preliminary Matters

2. The description of development is taken from the Council's decision notice. It is also the description used by the appellant on the appeal form. I consider this to be a succinct description of the appeal proposal, and I have therefore used this description as set out in my formal decision.
3. At the time of my site visit, the development had already been carried out, and was in accordance with the plans submitted. I have dealt with the appeal on this basis.

Main Issue

4. The main issue is the effect of the development upon the living conditions of the neighbouring occupiers at No.112 Second Avenue (No.112) with particular regard to outlook.

Reasons

5. The appeal site lies in an area dominated by streets of 2-storey terraced properties with 2-storey rear outriggers. The appeal property is a mid-terrace and shares a tunnel back with its neighbour at No.112. There is a brick wall on the common boundary, which is tallest at the tunnel back, before it reduces in height towards the rear private amenity space. The extension is positioned just inside the common boundary with No.112 and is finished in a light-coloured render to match the existing property.

6. At my site visit, I saw that the outlook of No.112's first floor rear windows were not adversely affected. This was due to the extension being at only ground floor level, and the view of the flat roof from the first-floor window was not obtrusive.
7. At the ground floor, No.112 has a window on the outrigger which appeared to be a kitchen area. The outlook is direct to the taller part of the boundary wall to a level about halfway up the window, and then the rendered wall of the extension towards the flat roof. There is another window on the principal rear elevation which faces the tunnel back, and this is a habitable room.
8. The direct outlook at this point is towards the rear garden, framed by the outrigger at No.112 and the boundary wall, with the side of the extension in peripheral view. In areas of close-knit housing such as this, the presence of outriggers in such close proximity with facing windows already provides a compromise to the living conditions of existing residential occupiers. In this particular case, the change in outlook is not significantly different to the pre-existing situation. Nor to the extent that it would be unacceptable.
9. For the reasons above, I therefore conclude that the development is in accordance with policies S6, SP1, SP2, SP3, SP8 and H1 of the London Borough of Newham Local Plan 2018, adopted December 2018; D1 and D4 of the London Plan March 2021; and the London Borough of Newham Supplementary Planning Document - Altering and Extending your Home, adopted 1 February 2018. Among other matters, these policies seek to achieve high quality design and prevent inappropriate unneighbourly development.

Other Matters

10. I have had regard to the appeal decisions submitted by the appellant, although I do not have the full details of their circumstances. Decisions outside of Newham were not comparable due to their different policy context. In terms of decisions in Newham, they were not comparable in terms of the location, the nature of the proposal and/or the relationship to adjoining/neighbouring properties. In any event, I have determined the appeal on the basis of the evidence before me and my own site observations.
11. I have been directed to a fallback position for an extension of a lower height, based on a certificate of lawfulness granted 31 January 2019 for a proposed construction of a single storey rear infill extension (Ref 19/00030/CLP). The main parties agree that the only difference to the appeal scheme is a marginal additional height. Nevertheless, it would be a future matter for the appellant to alter the extension to reduce its height in accordance with the certificate.
12. A prior approval was also granted 3 January 2019 (Ref 18/03517/PREHH). Thus, a single storey rear infill extension to the lower height could have been constructed without the need for planning permission. However, this proposed development was not carried out in accordance with the approved plans, and as such, in this regard there is no genuine fallback position. Nonetheless, it would appear that these schemes would be less harmful than the appeal scheme. However, given I find the appeal scheme to be acceptable, it is not necessary for me to weigh this in the planning balance.

Conditions

13. The Council suggested conditions in the event that the appeal was successful. A standard commencement condition and standard matching materials condition are not necessary as the development has already been carried out. The materials of the external surfaces of the development match those of the existing building.

Conclusion

14. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be allowed.

J Moore

INSPECTOR