



---

# Appeal Decision

Site visit made on 7 March 2023

**by Robert Naylor BSc (Hons) MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 March 2023**

---

**Appeal Ref: APP/G5750/D/22/3307076**

**115 Hatherley Gardens, East Ham, Newham, London, E6 3HD**

- 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 Fabiola Dearing against the decision of the Council for the London Borough of Newham.
  - The application Ref 22/01097/HH, dated 9 May 2022, was refused by notice dated 4 July 2022.
  - The development is the proposal for a loft extension.
- 

## Decision

1. The appeal is allowed and planning permission is granted for the proposal for a loft extension at 115 Hatherley Gardens, East Ham, Newham, London, E6 3HD in accordance with the terms of the application, Ref 22/01097/HH, dated 9 May 2022, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3359/BLP Rev P1; 3359/SLP Rev P1; 3359/P/03 Rev P1 and 3359/P/02 Rev P1.
  - 3) The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture to those of the existing building.
  - 4) 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 either flank elevation.

## Preliminary Matters

2. The description of development cited in the planning application form differs to that contained within the decision notice and appeal form. There is no evidence that this change was formally agreed. The former description more accurately reflects the scope of the proposed plans which were submitted, consulted upon, determined by the Council and are now the subject of this appeal. As no parties' interests would be prejudiced, in the interests of clarity I rely upon that description contained on the application form for the purposes of the heading above and paragraph 1 of my Decision.

## **Main Issue**

3. The main issues are the effects of the proposed development on the character and appearance of the surrounding area, and the living conditions of the adjoining residents with particular regard to daylight/sunlight, outlook and enclosure.

## **Reasons**

### *Character and appearance*

4. The appeal site is located in Hatherley Gardens, which is a suburban area, with a distinct character made up of terraced properties exhibiting gable and hipped roofs toward the street. Whilst there is slight variation in the style and materials used on the external facades, there is nevertheless a cohesive and rhythmic pattern to the front of the properties in the immediate area. However, at the rear, the appeal property and neighbours have incremental alterations and additions, particularly at the roof level, possibly built utilising permitted development rights. This provides a much more varied character with differences in the scale of additions with a noticeable lack of coherence or symmetry.
5. The appeal site is a mid-terrace property which has been subject to a previous extension at the rear on the first-floor level and a rear roof dormer extension. The rear of the property is visible from both Lichfield Road and Frinton Road. The development proposed includes a small roof extension over the existing first floor extension, with hung tiles and window to the rear.
6. The scale of the extension would be read within the context of a much broader elevation at the rear. As part of my site observations, I noted several large rear dormers over existing first floor rear extensions, similar to the proposal along Hatherley Gardens including Nos. 123 and 139, alongside similar developments at No. 67 Lichfield Road and Nos. 80 and 90 Frinton Road. As such, in the immediate vicinity of the appeal site, there are several properties with rear roof extensions of varying size and style, and within this context, the proposed development would not appear as an incongruous feature.
7. The Council's Supplementary Planning Document: Altering and Extending your Home (SPD) adopted February 2018 provides guidance on new extensions and requires that they should be subservient and respect the existing roof forms. The drawings before me highlight that the extension would be set off the end of the first-floor extension and slightly down from the roof of the existing rear dormer and given the overall variation at the rear, would not be out of keeping. Consequently, the extension would not be an overly dominant feature and would have a sympathetic design which would adhere to this guidance.
8. The proposal would not look out of proportion or too large in relation to the host dwelling or the surroundings. As a result, the proposed extension would cause no harm to the character and appearance, and would be compatible with local character, building proportions, form, materials and detailing.
9. In relation to the main issue, the proposal would preserve the character and appearance of the area. This would comply with Policies D1, D3 and D4 of the London Plan, March 2021 (LP) and Policies SP1 and SP3 of the London Borough of Newham Local Plan, adopted December 2018 (NLP), which among other things seek a design led approach to ensure a high quality of design, creating

positive local distinctiveness, whilst securing integration and coherence within the local context. In these respects, the proposed extension would also meet the design objectives of the SPD and the scheme would comply with Section 16 of the National Planning Policy Framework (the Framework).

10. I do not find conflict with LP Policy D8 of the London Plan 2021 which focuses principally upon the public realm. Nor do I find conflict with NLP Policies S1 and S4 which seem to be strategic policies aimed at larger sites and Canning Town and Custom House areas respectively. Furthermore, I do not find NLP Policies SP2 and SP8 directly relevant to this main issue as these seek to provide healthy neighbourhoods and protect neighbouring amenity which are largely irrelevant to the character and appearance of the area.

*Living conditions of the adjoining residents*

11. The properties most effected by the proposal are the adjoining properties at Nos. 113 and 117 Hatherley Gardens. In respect to the latter property, the Council considers the proposal would not unacceptably impact on the living conditions of this neighbour in respect to daylight, sunlight, outlook and enclosure, given the set off from the boundary. Subject to the provision of suitable conditions to ensure privacy levels are maintained, I would concur with this assessment.
12. No 113 has been extended at the first-floor level similar to that at the appeal site with windows to the rear and side elevations. The appeal proposal would increase the extent of the built form close to the party boundary which contains a secondary window on the flank elevation. Nonetheless, the proposed flat roof design means that overall, the appeal proposal's height, scale and bulk would not be of a level which would give rise to significant additional loss of daylight/sunlight or overshadowing, nor an undue sense of enclosure relative to the first-floor side window at No 113, given the dual aspect nature of the room it serves. Neither would its overall presence significantly reduce the current aspect enjoyed by those occupants to an extent that would be overbearing.
13. For the above reasons the appeal proposal would not be harmful to the living conditions of the occupants of No 113, with particular regard to daylight/sunlight, outlook and enclosure. As such, the proposed development would accord with LP Policies D1, D3 and D4 and NLP Policies SP2 and SP8, which amongst other things, are concerned with high design quality and protecting residential amenity. The proposal is also consistent with Paragraph 130 f) of the Framework which, amongst other things, also seeks a good standard of amenity for all existing and future occupants of buildings.

**Conditions**

14. No conditions have been suggested in respect to the proposal by the Council. Consequently, in attaching conditions to this decision, I have had regard to the tests set out at paragraph 56 of the Framework.
15. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. I have also attached a condition requiring the use of matching materials in the interests of a good quality appearance to the development.

16. I have also attached a condition preventing additional openings in the flank elevations to protect living conditions of neighbouring properties from the proposed development, in terms of privacy and overlooking.

**Conclusion**

17. For the reasons given above, and having regard to all other relevant matters raised, I conclude that the appeal should succeed.

*Robert Naylor*

INSPECTOR