



Appeal Decision

Site visit made on 14 February 2023

by I Jenkins BSC CENG MICE MCIWEM

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Appeal Ref: APP/G5750/W/22/3305070

2 Major Road, London, E15 1EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3 and Schedule 2, Part 20, Class AC of the *Town and Country Planning (General Permitted Development)(England) Order 2015* (as amended).
 - The appeal is made by Mr Dimo Dimov against the decision of London Borough of Newham.
 - The application Ref 22/00922/PREAC, dated 13 April 2022, was refused by notice dated 28 June 2022. The development proposed is an application for prior approval for an upward extension to create new self-contained flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 20, Class AC of the *Town and Country Planning (General Permitted Development)(England) Order 2015* (as amended) (GPDO) allows for the construction of new dwellinghouses (up to two additional storeys) immediately above the topmost storey on a terrace building in use as a single dwellinghouse within the meaning of Class C3, subject to the limitations and conditions set out under Class AC.1 and AC.2. The Council's concerns relate to conditions of paragraph AC.2(1)(e) and (g). They require consideration of: the external appearance of the building, including the design and architectural features of the principal elevation and any side elevation that fronts the highway; and, the impact on the amenity of neighbouring premises, including overlooking, privacy and the loss of light.
3. Whilst the proposal was described on the application form as '*construction of a new second floor level with a pitched roof to match that of the existing house to create a new self-contained flat*', the Council's *Notice of Refusal* and the appeal form confirm that it was amended to '*an upward extension to create new self-contained flat*'. I have taken this amendment into account and it is reflected in the summary information above.

Main Issues

4. Having regard to the above, I consider that the main issues in this case are the effect of the proposal on: the amenity of the occupiers of neighbouring property, with particular reference to light, outlook and privacy; and, the character and appearance of No. 2, the terrace of which it forms part and the locality.

Reasons

Amenity

5. No. 2 is located at the southern end of a row of terraced dwellings (appeal terrace), with 2-storey front walls and a pitched front roof slope. Although not shown on the application plans, a flat roofed rear dormer has been added to the rear roof slope of no. 4. The rear elevation of the appeal terrace faces in an easterly direction across the rear gardens of those properties. Beyond the fenced rear boundary of No. 2 there is outside space associated with a neighbouring nursery education centre. The proposal involves the addition of a roof extension, in the form of a single-storey addition with a pitched roof, to create a new self-contained flat.
6. The appellant has provided a *Shadowing Study* in support of the proposal. However, the shadowing plots provided are limited to conditions at 8 am and 6 pm. I acknowledge that the proposal would be unlikely to cause noticeable overshadowing of the neighbouring back gardens of the dwellings within the appeal terrace when the sun is rising in the east at around 8 am and going down in the west at around 6 pm, as the proposal would be positioned broadly to the south of those gardens. Nevertheless, I consider that in between those times of day, when sun is in a more southerly position, the impact would be likely to be far greater. The *Shadowing Study* does not provide shadowing plots during that period of the day and is of little assistance in that regard. I consider that the proposed single-storey pitched roof addition, due to its height, mass and relative position, would be likely to cause a noticeable increase in overshadowing of the rear gardens of neighbouring dwellings in the appeal terrace during the afternoon and evening. The loss of sunlighting would be unneighbourly and weighs heavily against the proposal.
7. The *Shadowing Study* appears not to include much, if any, of the outside space of the nursery and so is of little assistance in assessing the likely impact of the proposal at that property. In my judgement, due to the increased height of No. 2 to the west/southwest of parts of the nursery, the proposal would be likely to result in an increase in the extent to which parts of its outside space is overshadowed. However, the impact would be likely to be limited to a period towards the end of the day, when the sun is in the west, and to the northern section of the outside space. Under the circumstances, I attach limited weight to that impact.
8. The rear elevation of the proposal would include 2 new windows, through which it would be possible to overlook parts of the rear gardens of neighbouring dwellings within the appeal terrace and the nursery's outside space. However, those areas can already be overlooked from the first floor windows within the rear elevation of the terrace. To my mind therefore, the scheme would be unlikely to cause any significant harm to the privacy of the occupants of neighbouring properties.
9. Viewed from the rear garden of No. 4, the back wall of No. 2, extended as proposed, would appear similar in height to the rear elevation of No. 4, with its flat roofed dormer extension. From that vantage point the rear elevation of No. 4, being closer, would appear to dominate the space more than the proposed extension. Other neighbouring rear gardens would be further away from the proposal. In my judgement therefore, the appeal scheme would not

have a material adverse impact on the outlook from the rear gardens of neighbouring properties.

10. Nonetheless, I conclude overall that the proposal would be likely to cause unacceptable harm to the amenity of the occupants of neighbouring property, with particular reference to loss of light.

Character and appearance

11. The frontage of the appeal terrace does not have a uniform appearance. It is characterised by a central block of 3 dwellings that are similar, including in terms of width and pattern of fenestration, with a dwelling on either side of the central block, which is wider and has a different arrangement of window openings, such that there is no regular rhythm of fenestration along the whole frontage that might otherwise be disrupted by the proposal. The roofscape of the appeal terrace is not uniform either. There is a step, albeit small, in the eaves and ridge levels between the central block and the unit on each side.
12. The design of the proposed extension would be consistent with that of the No. 2 and the appeal terrace in a number of respects, including its pitched roof design and the materials used in its external surfaces. The extended front elevation of No. 2, as proposed, would include the replacement of a first floor level window over the doorway with a pair of windows and three new windows at second floor level. In my view, they would be reasonably consistent with the vertical alignment and style of No. 2's existing fenestration.
13. I acknowledge that the proposed addition of a single storey to No. 2 would alter its appearance and that of the appeal terrace. However, I consider that, as the step up from 2 to 3-storeys would be at one end of the row, it would not 'break up' the character of the terrace. Furthermore, due to the position of the extension at one end of the relatively short terrace, the limited increase in height of No. 2, the consistency of design details referred to above and the non-uniform appearance of the existing terrace in certain respects, the extended property would not appear incongruous, whether viewed in isolation or as part of the appeal terrace. Nor would it appear incongruous relative to neighbouring buildings. The locality includes a wide variety of building styles and designs. The appeal terrace faces across Major Road towards a longer 3-storey residential block, to the north there is a 4-storey block, to the east a single-storey nursery building and to the south 2-storey residential development.
14. The 3-storey southern gable wall of the extended appeal building would be set back from Henniker Road beyond a car parking area. In contrast, the 3-storey southern gable wall of the block opposite the appeal terrace, on the other side of Major Road, is set back from Henniker Road beyond a narrow verge. In this context, the proposed 3-storey gable would not appear overbearing or unduly dominant when seen from a southerly direction.
15. I conclude that the effect of the proposal on the character and appearance of No. 2, the appeal terrace and the locality would be acceptable.

Other Matters

16. No Development Plan Policies have been drawn to my attention by the Council or appellant. Whilst the Council has made reference to a previously refused appeal decision, I understand that it relates to a case in the London Borough of

Haringey involving a proposed upward extension of a mid-terrace, rather than end terrace, property. I consider therefore, that the circumstances were materially different from those in the case before me and that previous decision is of little relevance to my consideration of the current appeal.

17. The appeal site is in a location with a Public Transport Accessibility Level of 6b (excellent). There is no dispute that the proposed creation of a new 1-bedroom flat, with which travel demands would be likely to be limited, would be unlikely to have an adverse impact on transport or highways. Furthermore, it would not have an adverse impact on a protected view or air traffic and defence assets. It would not give rise to contamination risks or flood risks in relation to the building and the proposed habitable rooms would have adequate levels of natural light.

Conclusion

18. Whilst I have found that the proposal would be acceptable in other respects, it would be likely to cause unacceptable harm to the amenity of the occupants of neighbouring property. I conclude overall, for the reasons given above, that the appeal should be dismissed.

I Jenkins

INSPECTOR