The Planning Inspectorate

Appeal Decision

Site visit made on 4 April 2023

by H Lock BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st April 2023

Appeal Ref: APP/G5750/D/23/3314015
40 Tudor Road, East Ham, LONDON, E6 1DR

- 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 Mohyammed Abdur Rab against the decision of the Council of the London Borough of Newham.
- The application Ref. 22/02023/HH, dated 15 August 2022, was refused by notice dated 11 October 2022.
- The development proposed is described as retrospective application for rear extension, outbuilding in the rear garden and new obscured glass screen for the first floor terrace.

Decision

1. The appeal is dismissed.

Procedural Matters

2. There is disagreement between the parties on the scope of this appeal in relation to the "rear extension" referred to in the description of development. The Council's assessment was based on the whole of the ground floor extension which has been built behind and to the side of the original two-storey 'outrigger'. In contrast, the appellant has confirmed that the appeal relates to a 2.08m section only at the southern end of the ground floor extension, advising that the property was bought with the element behind the outrigger in situ.

3. Given the planning history, the description of development on the planning application form and the absence of any of the ground floor extension on the 'pre-existing' floor plans which were submitted with the application, I can understand why the Council determined the development as it did. Nevertheless, the appellant has confirmed that the appeal relates to the southern end of the ground floor extension only, plus the roof terrace screens and outbuilding. I have therefore determined the appeal on this basis, without prejudice to the lawful position or otherwise of the remainder of the ground floor extension.

4. The extension and outbuilding the subject of this appeal have already been constructed, but it is proposed to replace railings to both sides of the existing roof terrace with 1.8m high obscured glass screens. An existing first-floor door from the outrigger which provides access onto the roof terrace is shown to be replaced with a window on the 'proposed' rear elevation on drawing no. TPLA0026PP/05. However, the proposed first-floor plan on drawing no.

TPLA0026PP/04 indicates an opening door onto the roof. Given the stated purpose of the roof terrace I have determined the appeal on the basis that the door is to remain.

5. One of the windows shown as proposed on the rear elevation of the ground floor extension differs slightly from the 'as built' size, and therefore position, but for the avoidance of doubt I have considered the proposal as shown on the submitted plans.

6. The Council advises that a porch which has been constructed on the front elevation has not been shown on the submitted plans, but that detail does not materially affect my assessment of the appeal development. Whilst the inaccurate depiction of the application site and existing built form are a reason for refusal I have found that there is sufficient detail to enable an assessment.

Main Issues

7. The main issues are the effect of the development on (1) the character and appearance of the host property and the locality; and (2) the living conditions of neighbouring residents at 38 and 42 Tudor Road (Nos. 38 and 42), with particular reference to daylight and overshadowing, privacy and outlook.

Reasons

Character and Appearance

8. The appeal property is a mid-terrace dwelling. A feature of this and neighbouring houses is a pattern of 'outriggers', being a two-storey rear wing which is linked to that of its neighbour at the boundary. These outriggers do not span the full width of the property, meaning that recesses are created between pairs of outriggers, with windows set back into these recesses.

9. At the appeal property, there is a deep single-storey rear extension which has infilled the gap between its outrigger and the boundary with No. 42. Although the appellant advises that the appeal extension itself is not deep, considered cumulatively, it results in a rear extension projecting some distance beyond both neighbouring properties, but most significantly along the boundary with No. 42. At present the roof of the combined extensions is used as a terrace and is enclosed by railings, although it is proposed to replace these with 1.8m high privacy screens.

10. Policies S1 and SP3 of the Newham Local Plan 2018 (LP) expect all development to be high quality urban design and well integrated with its surroundings, and this reflects the design requirements of Policies D3 and D4 of The London Plan 2021 (TLP). However, the overall depth of flat roofed addition to the dwelling appears disproportionate and incongruous on the host building and the wider setting. Although there are a variety of extensions in the vicinity, none appear to be as extensive as at the appeal site. In wider views the railings and roof terrace are not prominent features, but the introduction of 1.8m high opaque screening to the sides of the roof terrace would not only appear incongruous but would also create a more visually intrusive addition.

11. The appellant has drawn attention to the Council's published guidance for extensions, but given the overall footprint of flat roofed extensions relative to the original house I do not consider that the appeal development appears subordinate or blends with the host property as suggested. Although I accept

that the development is not visible from the road, and is not within a conservation or other sensitive area, it is appropriate to seek high quality development in all circumstances.

12. Whilst I acknowledge that the National Planning Policy Framework (the Framework) and local planning policies promote effective use of land and the optimal use of sites, this must be balanced against the visual and other impacts of intensification. As a mid-terrace dwelling in an area of similarly scaled buildings I do not share the appellant's view that the appeal building is grossly underutilised. I am mindful of the purpose of the extension, but its addition has materially added to the scale and bulk of extensions at the appeal property. On the basis of the limited information provided it is not evident that the facilities could not be provided elsewhere in the property, and as such the need for them would not justify the appeal scheme.

13. In isolation, I find the outbuilding to be acceptable in scale and design. However, it contributes to a level of development which detracts from the character and appearance of the host house. Although a functional and usable space remains, together the outbuilding and extension have significantly reduced the original garden area (setting aside the roof terrace) to a degree that the site appears overdeveloped compared to the more spacious plots that prevail in the area.

14. I therefore conclude that the appeal development detracts from the character and appearance of the host property and the locality, contrary to the design objectives of the Framework, and TLP Policies D3 and D4, which amongst other criteria seek high quality developments that enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, and which respond to the existing character; and contrary to LP Policies S1, SP1 and SP3, which expect high quality development that seeks to reinforce or create positive local distinctiveness, whilst securing integration and coherence with the local context.

15. I do not find TLP Policy D1, which focuses on the capacity for growth, to be relevant; nor the strategic spatial strategy set out in LP Policy S6, and the aim to ensure neighbourly development in LP Policy SP8 (on this specific matter). However, this does not alter my assessment.

Living Conditions

16. In isolation, the footprint of the appeal extension is reasonably modest. However, it contributes to a much deeper extension that projects significantly along both shared boundaries. The height and projection along the boundary with No.42 is particularly notable, with the appeal development adding to an already intrusive boundary treatment. Viewed on the ground, the overall extension dominates the outlook from the closest ground floor windows and garden of No.42. Its height and depth create an unacceptably overbearing sense of enclosure, and this would be even greater with the additional height of 1.8m privacy screens to the roof terrace. Even in the context of a built-up urban area, without such screens there would be a material loss of privacy for neighbouring residents from the roof terrace, with clear views back towards habitable rooms and into what should reasonably be expected to be private gardens below.

17. The orientation means that at certain points of the day, both neighbouring properties are likely to experience some light loss and overshadowing, and this would be made worse if privacy screens were installed, despite being opaque glass. As built, the roof terrace gives rise to an unacceptable loss of privacy to neighbouring residents, but the proposed 1.8m high privacy screens would add to the height and dominance of the extension below in the outlook from adjacent properties.

18. I find the outbuilding to be acceptable in its impact on neighbouring residents, but this does not resolve the cumulative effect of development on the dwelling and the site itself.

19. I therefore conclude that, as a result of the cumulative depth and height of ground floor rear extensions at the property, plus the necessary privacy screens, the outlook for occupants of 38 and 42 Tudor Road would be diminished, and material light loss and overshadowing would result. These adverse impacts would be to a degree that their living conditions would be harmed. Without the privacy screens in place, there would be an unacceptable loss of privacy for neighbouring residents arising from the use of the roof terrace. The development would therefore be contrary to the aim to create places with a high standard of amenity for existing and future users set out in the Framework, with TLP Policy D3, which requires development to deliver appropriate outlook, privacy and amenity, and LP Policy SP8, which amongst other criteria expects all development to achieve good neighbourliness and to minimise overlooking and loss of privacy, overshadowing, and overbearing impact.

20. On this point I do not find TLP Policy D1 to be relevant, nor the infrastructure requirements of TLP Policy D2, or TLP Policy D8, which is concerned with the public realm; nor the more strategic matters of LP Policies S6, SP1, SP2, SP3 and H1, but that does not alter my conclusions.

Other Matters

21. The appellant advises that the railings to the roof terrace were installed for security purposes. However, this benefit must be balanced against the harm created by the use of the enclosed roof terrace. There are other less intrusive measures available to enhance the security of the property, and I am not persuaded that the risk would justify the appeal development.

22. I have considered whether or not the adverse impacts of the development could be addressed through planning conditions, but for the reasons outlined above do not find this to be achievable.

23. I have placed limited weight on the precedents sited by the appellant, as in the absence of any plans I cannot make any comparison with the appeal scheme.

Conclusion

24. For the above reasons, I conclude that this appeal should be dismissed.

H Lock

INSPECTOR