
Appeal Decision

Site visit made on 20 March 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th May 2023

Appeal Ref: APP/G5750/W/22/3309466

30B Avenue Road, Forest Gate, Newham, London E7 0LD

- 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 Ms Kate Sullivan against the decision of the Council of the London Borough of Newham.
 - The application Ref 22/01688/FUL, dated 12 July 2022, was refused by notice dated 23 September 2022.
 - The development proposed is an external rear staircase.
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Decision

1. The appeal is allowed and planning permission is granted for an external rear staircase, at 30B Avenue Road, Forest Gate, Newham, London E7 0LD, in accordance with the terms of the application, Ref 22/01688/FUL, dated 12 July 2022, 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: Site location plan and drawing Nos. B75401-3100A, B75401-3200A, B75401-3201A, B75401-3300A, B75401-3600A and B75401-1500A.

Preliminary Matters

2. There is a dispute regarding the accuracy of the submitted plans in relation to the positioning and proximity of adjacent properties. However, I am satisfied that the plans relating to the appeal site are accurate, and that these, together with a site visit, are adequate for assessing the effect of the development on occupiers of neighbouring properties. I am also satisfied that occupiers of neighbouring properties would be able to understand whereabouts on the appeal site the proposed staircase would be in relation to their own properties. Consequently, no interested parties would be prejudiced should there be any minor discrepancies on the submitted plans.
3. The Council repeatedly refers to the appeal property as a mid-terraced dwelling adjoining 28 Avenue Road. During my site visit, I walked along the wide path which provides access to the rear of No.28. This access is shown on the submitted drawings and physically separates Nos.28 and 30. The appeal property is in fact located within a row of semi-detached properties, some of which are linked by their rear outriggers.

Main Issues

4. The main issues are the effect of the proposed development on i) the living conditions of occupiers of 28, 30A and 32 Avenue Road with regard to noise and disturbance, outlook and privacy and ii) the character and appearance of the appeal property and its surroundings.

Reasons

Living conditions

5. It is proposed to install a new door into the first-floor rear elevation of the outrigger at the appeal property. This would lead to a new external spiral staircase, which is required to provide the appellant with access between the first floor flat and its rear garden. The staircase would be in a corner bound by the rear elevation of the outrigger and the garden boundary wall between Nos. 28 and 30. Living green privacy screens are proposed to be constructed on either side of the staircase. The privacy screen adjacent to No.28 would extend from the top of the existing boundary wall to just below the top of the new door opening. The screen on the other side would be much shorter, extending from the floor of the platform at the top of the stairs to just below the top of the new door.
6. As previously mentioned, No.28 is separated from the appeal site by a wide pathway that runs between the two properties, providing access to the rear garden of No.28 only. It has a balcony to the rear and steps leading down to its patio area. Neither the rear elevation of No.28 nor its balcony extends quite as far back into the rear garden, as the rear wall of the appeal property. Given the position of No.28 in relation to the appeal property, with or without the proposed privacy screen, the proposal would not result in a harmful level of overlooking of the windows, balcony or patio areas immediately to the rear of No.28, and would not appear over bearing.
7. The adjoining property, No.32, appears to be subdivided into ground and upper floor flats. It has an external staircase to the side, between the rear outriggers of Nos. 30 and 32, which provides access between the upper floor of No.32 and its rear garden. Although the proposed staircase would be visible from the rear garden of No.32, due to its modest and slender scale, and its location adjacent to the boundary with No.28, it would not appear overbearing and it would have no adverse effect on the living conditions of occupiers of either floor of No.32, in terms of outlook or loss of privacy, with or without the privacy screen. The Council's Officer Report appears to concur with this view despite some contradictory conclusions and subsequent reference to No.32 in the reason for refusal relating to living conditions.
8. The staircase would also be located immediately adjacent to a window of the ground floor flat, No.30A. No privacy screen is proposed adjacent to this window and users of the new staircase would therefore be able to see directly into it when going up and down the stairs. However, given the nature of the staircase, it is more likely that users would be concentrating on looking where they are going rather than looking in nearby windows. Moreover, the use of the staircase for accessing the garden is unlikely to be intensive and accordingly, any loss of privacy would be minimal and would not result in any material effect on living conditions. In reaching this view I am also mindful of the fact that as the rear garden space is shared between the two flats, it is inevitable

- that occupiers of the first floor flat would need to pass by the windows of the ground floor flat regardless of how they access the garden.
9. Whilst the proposed staircase would inevitably be visible from the ground floor window of No.30A and would restrict oblique views from it into the neighbouring garden of No.28, the staircase would not be directly in front of the window and consequently this window would retain its open outlook over its own rear garden.
 10. The appeal property and those adjacent to it all have long rear gardens backing onto a school. The rear gardens of the adjacent properties are already overlooked by the upper floor windows of multiple properties and the balcony and external staircases that already exist at the rear of Nos. 28 and 32. The proposed staircase would not include any platforms large enough for sitting out on and the proposed privacy screens would reduce overlooking from the short durations in which the stairs would be in use. I also note that no objections have been received from any neighbouring properties.
 11. Due to the open design of the staircase together with its modest width and projection from the rear elevation, it would not appear obtrusive, overbearing or result in any significant loss of outlook to occupiers of any adjacent properties.
 12. Whilst I acknowledge that some noise may be generated by the use of the proposed metal staircase, I am also mindful that it would serve only the appeal property, which is a relatively small flat, that it would not be the sole or main entrance/exit to the property, and that it would only provide access to the rear garden. Its use is therefore unlikely to be heavy or frequent and is most likely to take place during daylight hours. I note that there are similar metal external staircases at Nos. 28 and 32 and there is no evidence before me to suggest that the use of these has resulted in unacceptable levels of noise or disturbance.
 13. I therefore conclude that the proposed development would not have an adverse effect on the living conditions of occupiers of Nos.28, 30A or 32 Avenue Road, with regards to noise and disturbance, outlook and privacy. Consequently, it would accord with Policies D1 and D4 of the London Plan March 2021 (the London Plan) and Policies S6, SP1, SP2, SP3, SP8 and H1 of the Newham Local Plan 2018 (Local Plan), which seek amongst other things to ensure high quality development and good neighbourliness. There would also be no conflict with relevant guidance within Newham's Local Plan Altering and Extending Your Home Supplementary Planning Document (SPD) (February 2018) or the National Planning Policy Framework (the Framework), which seek to ensure a high standard of amenity for existing and future users.

Character and appearance

14. Many of the properties adjacent to the appeal site appear to have been subdivided into flats. Whilst the Council state that planning permission has not been granted for external staircases on other properties in this area, it was evident from my visit that there are at least four external rear staircases in the row of properties that the appeal site sits within, between the access to the garages and the railway bridge (26-48 Avenue Road). These other external staircases do not appear to be recent additions and are a characteristic of this area. The Council's pre-application advice letter acknowledges the presence of

the external staircase at No.32 and does not suggest that it has been subject to any enforcement action. Given the presence of these other external staircases, some of which are larger and more visually prominent from the access to the rear garages, the proposed development would not set a precedent. In any event each application is determined based upon its own merits.

15. The proposed staircase and privacy screens would only be visible from the rear windows and gardens of the adjacent properties. Due to the modest scale and high-quality design of the proposal it would not appear visually intrusive or incongruous and it would respect the character of the appeal property and the row of dwellings that it would sit within.
16. I therefore conclude that the proposed development would not have an adverse effect on the character and appearance of the appeal property or its surroundings. Consequently, it would be in accordance with Policies D1 and D4 of the London Plan and Policies S6, SP1, SP3 and SP8 of the Local Plan, which seek amongst other things to ensure high quality design that respects its surroundings. There would also be no conflict with the relevant guidance within the SPD or relevant paragraphs in the Framework, which seek amongst other things to ensure development is visually attractive and sympathetic to local character.

Conditions

17. No conditions have been suggested by the Council. However, I have imposed a condition specifying the approved drawing numbers as this provides certainty.

Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed.

R Bartlett

INSPECTOR