



Appeal Decision

Site visit made on 11 July 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2023

Appeal Ref: APP/G5750/D/22/3313123

14 Washington Avenue, Manor Park, Newham, London E12 5JB

- 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 Mrs. Zuneera Khan against the decision of the Council of the London Borough of Newham.
 - The application Ref 22/01842/HH, dated 27 July 2022, was refused by notice dated 23 September 2022.
 - The development is described as 'retrospective application for the retention of the ground floor rear extension'.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a ground floor rear extension at 14 Washington Avenue, Manor Park, Newham, London E12 5JB in accordance with the terms of the application, Ref 22/01842/HH, dated 27 July 2022, and the plans submitted with it, subject to the following condition:
 - 1) 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 alterations shall be made to the window openings on the side elevations of the extension hereby permitted and the obscured glazing fitted in the existing window openings shall be permanently retained.

Preliminary Matters

2. The extension has been erected and therefore I am considering this appeal retrospectively. At the time of my site visit I established that the siting and design of the extension mostly corresponds with the details shown on the application drawings, although a roof light has been inserted in the flat roof and the external walls have been rendered and painted white, matching the ground floor of the host dwelling.
3. In the banner heading above, I have used the description of the development as given on the application form. However, I have used a modified wording in the decision above, in line with the Council's decision notice. This wording more accurately reflects the development permitted, since the definition of development in s55 of the Town and Country Planning Act 1990 does not distinguish between proposed development and development considered retrospectively.

Main Issues

4. The main issues are the effect of the extension on:

- the character and appearance of the host dwelling and surrounding area,
- living conditions for the occupiers of neighbouring properties, and
- biodiversity.

Reasons

Character and Appearance

5. The appeal site is a mid-terraced property on a narrow plot on the southeast side of Washington Avenue. It is within an area of similar terraced housing, facing a short spur road with no through access. The surrounding housing has ornate detailing to the street elevations, but the rear elevations are of a plainer appearance, generally finished in facing brickwork or render. There is a modern building providing a community centre and flats to the rear of the site, fronting Toronto Avenue. A hard surfaced play area linked to the community centre adjoins the rear boundary of the appeal site.
6. There have been a wide variety of rear extensions and alterations to the surrounding dwellings. This is clearly apparent from viewpoints at the end of the spur road off Washington Avenue and just around the corner in Toronto Avenue, which in both cases provide views into several rear gardens. These reveal a variety of single storey rear extensions, generally with flat or lean-to roofs, as well as a few substantial flat roofed dormer windows. The extended dwellings include numbers 10 and 12 Washington Avenue, alongside the appeal site, both of which also have substantial single storey extensions at the rear.
7. I have not been provided with any evidence as to the planning history of other nearby extensions. However, they include several which appear to have been constructed many years ago and are therefore a well-established feature of the street scene.
8. The extension at the appeal site covers a very high proportion of the rear garden. To that extent it is at odds with the more modest scale of most, but not all, of the other additions. However, it is largely enclosed within the surrounding close boarded boundary fence and only the flat roof and very top of the rear walls are visible within the street scene.
9. Like its neighbours, the host dwelling has an original two-storey outshoot projection at the rear, to which the single storey extension is attached. The extension is clearly subservient in height and the original two-storey dwelling remains the more prominent feature of the site. The exterior has been rendered and painted to match the ground floor of the host dwelling, and also harmonises with the pale rendered finish of the adjacent dwellings.
10. From the only available public viewpoint, on Toronto Avenue, the extension is one of several visible rear additions. It is set well back from the road and is neither excessively prominent nor visually intrusive. The metal security fencing of the adjacent play area is a somewhat more prominent feature in the foreground.

11. The very high plot coverage is unusual and the extension's flat roofed design does not incorporate any particular features designed to soften its appearance. However, it does have the merit of minimising the height and bulk of the extension, making it visually unobtrusive, as described above. Furthermore, the scope for meaningful enhancement of the street scene through alternative design measures is extremely limited, given the modest scale of the plot and the degree of boundary screening.
12. For the above reasons, I conclude that the extension is not unacceptably harmful to the character and appearance of the host dwelling and surrounding area. On that basis, it does not conflict with relevant requirements in Policies SP1, SP3 or S6 of the London Borough of Newham Local Plan 2018, Policy D3 of the London Plan 2021 or relevant paragraphs of the Framework. These policies, amongst other things require that the design of new development responds to local context and character and the specific attributes of the site.
13. While the extension does not demonstrate a high quality of urban design or positively enhance the street scene, it does otherwise reflect relevant recommendations in the Altering and Extending your Home SPD 2018 (AEH SPD), including that new extensions should be subservient to the original house and constructed in complementary materials.
14. Policies D1 and D4 of the London Plan are cited in all three reasons for refusal. These strategic policies set out measures through which Boroughs should establish the capacity for growth within a design-led policy framework, plan accordingly and make use of measures such as design codes and design reviews to bring forward high quality new development. While this includes considerations of local townscape character and green infrastructure, both policies are focussed on decision-making at a strategic level and of only indirect relevance to consideration of this specific, small-scale development.

Living Conditions

15. The terraced properties along Washington Avenue are on particularly narrow plots. The rear two-storey projections include side-facing windows that face each other at close proximity. As a result, the small rear gardens already have a somewhat enclosed character and there is an established level of mutual overlooking between adjacent properties.
16. The extension incorporates high level windows on both side elevations and at the rear. I was able to establish during my site visit that the height of the window cills prevents any view into the adjacent dwellings or their rear gardens. All four windows are also obscure glazed. The rooflight which has been inserted provides internal daylight without opening up any views into neighbouring dwellings. Therefore, the extension does not cause any loss of privacy within the dwellings to either side or their rear gardens.
17. The Council has not alleged that the extension causes any unacceptable loss of outlook, sunlight or daylight within neighbouring habitable rooms and based on the evidence before me I agree with that conclusion. The gardens face approximately southeast, allowing for direct sunlight in the morning and middle of the day. Given its position on the side boundaries, the extension will cast a shadow at certain times. However, the single storey, flat roofed design limits the extent of such overshadowing, particularly during the summer when the sun is higher and garden areas are most likely to be in regular use.

18. The extension walls are on the boundaries of the adjacent rear gardens. As such, the development has increased the sense of enclosure within these gardens, also affecting the limited number of ground floor rooms which face into them. However, this is likewise mitigated by the single storey, flat roofed design, which limits the extension's overall height at the boundary. The play area also provides an open outlook at the rear of the neighbouring properties, which is unaffected.
19. No representations were received from interested parties and in consequence there is no first-hand evidence before me of the extent to which neighbouring occupiers find the extension intrusive or not. The additional degree of enclosure and overshadowing is limited in extent, for the reasons given above. Therefore, while recognising that the extension does have some effect on living conditions within the adjoining properties, based on the evidence before me I find that it is not unacceptably harmful.
20. Although the Council's Officer Report refers to a building at the rear, the community centre building is off to one side of the site. Given its limited scale, the extension does not introduce any material degree of enclosure or otherwise hamper the use or enjoyment of the adjacent play area or other uses within this adjacent site.
21. For the reasons given above, I conclude that the extension does not unacceptably affect living conditions for the occupiers of neighbouring properties. As such, it does not conflict with relevant requirements in Policies SP1, SP3, SP8 or S6 of the Local Plan, London Plan Policy D3 or relevant paragraphs of the Framework. These policies, amongst other things require that new development achieves good neighbourliness, including by ensuring adequate access to sunlight and minimising overlooking, loss of privacy, overshadowing and overbearing impact.
22. Given the conclusions I have reached above, the extension does not conflict with relevant recommendations in the AEH SPD, which include that reasonable levels of sunlight are maintained in outdoor garden/amenity space and that privacy and outlook is not harmfully compromised, giving special consideration to the effect of extensions on the boundary with a neighbouring property.

Biodiversity

23. Prior to erection of the extension, the rear garden was already enclosed by the surrounding terraced housing and the hard surfaced play area at the rear. Although there is planting in some of the adjacent garden areas, it is limited in scale and lacks connectivity with any more extensive green spaces. Although residential gardens can make an important contribution to biodiversity within urban areas, given the particular scale and layout of the appeal site and its neighbours, any such contribution is realistically likely to have been very limited.
24. Within this context, while I recognise that the extension has resulted in the loss of garden space, there is no substantive evidence that this had any material or harmful effect on existing trees, habitat for protected species or other features with established biodiversity value. No harm to designated nature conservation sites has been alleged. It follows that there is no clear justification for requiring compensatory measures.

25. The extension does not incorporate any design measures to support biodiversity or other aspects of sustainable development, as recommended in the AEH SPD. However, the AEH SPD is expressed in terms of recommendations, rather than requirements. Although Policy SC4 of the Local Plan includes a strategic requirement for biodiversity net gain, the associated design and technical criteria for biodiversity enhancement apply to development of one or more new residential units, which is not relevant in this case.
26. For the above reasons, I conclude that the extension does not have any demonstrably harmful effect on biodiversity. As such, it does not conflict with relevant requirements in Local Plan Policy SC4, London Plan Policy D3 or relevant paragraphs of the Framework. These policies, amongst other things, state that biodiversity will be protected and enhanced and that significant adverse impact on protected species and habitats is to be avoided.

Conditions

27. I was supplied with no suggested conditions by the Council. Since the extension has already been completed, there is no requirement for a condition regarding the timescale for implementation of the development. The external materials already match those used on the host dwelling to an acceptable degree.
28. My conclusions in relation to the privacy of neighbouring properties hinge on the effectiveness of the high level window openings and use of obscure glazing. Even very minor alterations to those windows could significantly undermine privacy across the side boundaries. On that basis, I have imposed a condition preventing future alteration of the side-facing windows and requiring that the existing obscure glazing is retained. While I recognise that the Framework advises against removal of permitted development rights unless there is a clear justification for doing so, the location of the windows right on the boundary provides that justification in this case.

Conclusion

29. For the above reasons, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed.

Jane Smith

INSPECTOR