
Appeal Decision

Site visit made on 12 September 2023

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/C5690/C/23/3322651

27 Lutwyche Road, London SE6 4EP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Moshe Steinmetz on behalf of Heywood Group LTD against an enforcement notice issued by the Council of the London Borough of Lewisham.
 - The enforcement notice was issued on 12 April 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of an enlargement to the rear of the property (a ground floor rear extension).
 - The requirements of the notice are:
 1. Remove the newly built ground floor rear extension at No.27 Lutwyche Road, approximately outlined in blue on the attached plan, leaving an extension of 3m in depth from the original rear wall. AND
 2. Make good all damage resulting from the compliance with the requirements of step (1.) AND
 3. Remove all materials, debris, waste and equipment resulting from compliance with Steps (1) and (2) of this notice from the land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. It is directed that the enforcement notice is:
 - corrected by deleting the allegation within section 3 of the enforcement notice (the breach of planning control alleged) and its replacement with "the erection of a ground floor rear extension, in the approximate position outlined in blue on the attached plan".
2. Subject to the correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a ground floor rear extension, in the approximate position outlined in blue on the attached plan at 27 Lutwyche Road, London SE6 4EP referred to in the notice.

Preliminary Matter

3. The allegation in the Enforcement Notice is worded in a complicated manner. This makes it difficult to follow and determine what the act or acts of

development subject to the allegation are, or the terms of the deemed planning application and appeal on ground (a). However, the appellant appears to have understood the allegation and, in my opinion, the misdescription does not render the notice completely unclear. It is necessary however to correct the allegation to remove unnecessary words but retaining the effect of what the Council is trying to achieve. This would not cause injustice and I can therefore use my powers under the provisions of s176(1)(a) to achieve this correction.

Appeal on ground (a), the deemed planning application (DPA)

Main Issues

4. The main issues are the effect of the development upon:
 - The character and appearance of the host building and area; and
 - The living conditions for the neighbouring occupiers of Nos 25 and 29 Lutwyche Road, with particular regard to outlook, daylight, sunlight, overshadowing and privacy.

Reasons

Character and appearance

5. The appeal site relates to a two-storey terraced property which has been previously extended with a rear dormer roof extension. Prior to the current unauthorised development, the property also includes a flat roof rear extension, which is similar to the existing flat roof rear extension at No 25 Lutwyche Road. Properties in the street generally benefit from original two storey rear additions, with the two storey rear additions considerably larger and deeper at Nos 29, 31 and 33 Lutwyche Road.
6. The design of the single storey rear extension, finished in render painted white which to match the host building, together with its modest overall size and flat roof design, and set back away from the boundary with No 29 Lutwyche Road, ensures that the development does not appear unduly dominant. In these respects, the development maintains the character and appearance of the building.
7. Furthermore, the extension does not occupy a disproportionate area of the rear garden with more than 50% of the garden remaining, in accordance with Lewisham's Local Plan Alterations and Extensions Supplementary Planning Document, 2019 (Design SPD). I also observed that there were similar sized ground floor extensions in the area, and therefore the development is not uncharacteristic of the area. Furthermore, owing to its position to the rear of the property, ensures that it is not harmful to the street scene.
8. I therefore conclude that the development preserves the character and appearance of the host building and area. It would therefore be in accordance with Core Strategy Policy 15 of Lewisham's Core Strategy Development Plan Document 2011 (CS), Policies 30 and 31 of Lewisham's Development Management Local Plan, 2014 (DMLP), and Policies D1 and D4 of the London Plan, 2021 (London Plan). Amongst other things these require that all development proposals attain a high standard of design, and respect and/or complement the form, setting, period, architectural characteristics, and detailing of the original buildings, and that and an accessible and usable private

garden is retained that is appropriate in size in relation to the size of the property.

9. The development would also comply with the design policies of the National Planning Policy Framework, 2023 (The Framework).

Living conditions for the occupiers at 25 and 29 Lutwyche Road – outlook, overshadowing, daylight, sunlight and privacy

10. For single storey rear extension, the Design SPD advises that as a general rule, extensions extending up to 3m in length should be no more than 3m in height on the boundary. Although the extension, in combination with the pre-existing rear extension, exceeds 3m in length, the modest and relatively low flat roof design of the extension ensures that the overall height of the development is not excessive for this property. Furthermore, there is already an existing single storey rear extension at No 25, and the appeal development does not project more than 3m in depth from the rear wall of that adjacent extension, thus mitigating any potential harm in relation to loss of outlook, daylight, sunlight and overshadowing to occupiers of No 25.
11. I also note the findings of the daylight and sunlight assessment, prepared by Morgan Light Assessors, which concludes that the neighbouring ground floor window at No 25 passes the daylight and sunlight assessment in accordance with the Building Research Establishment (BRE) guide 'Site Layout Planning for Daylight and Sunlight: a guide to good practice. I find no reason to disagree with the findings of this report.
12. Similarly, the modest height of the development in combination with its separation distance from No 29 Lutwyche Road, ensures that development does not harm the living conditions for the occupiers of No 29 with regard to outlook, daylight, sunlight and overshadowing.
13. Turning to privacy, given the position of the development at ground floor level, and the presence of the existing rear boundary treatments, the development does not result in any additional views towards neighbouring properties or gardens. In this respect, the development does not result in any harmful overlooking or loss of privacy for the occupiers of No 25 and 29.
14. I therefore conclude that the development does not have a harmful effect in relation to outlook, overshadowing, daylight, sunlight and privacy for the occupiers of Nos 25 and 29 Lutwyche Road. In this respect, the development complies with Core Strategy Policy 15 of the CS and Policy 31 of the DMLP. Amongst other things these require that household extensions protect neighbour's amenity and that residential extensions, adjacent to dwellings should result in no significant loss of privacy and amenity (including sunlight and daylight) to adjoining houses and their back gardens.
15. The development is also in accordance with paragraph 130 of Framework which seeks to ensure all developments creates places with a high standard of amenity for existing and future user.

Other Matters

16. No conditions have been suggested by the Council and as the development appears to be completed, there is no need for any.

Conclusion

17. For the reasons given above I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development described in the enforcement notice, as corrected. The enforcement notice will be quashed, and it follows that the appeal on ground (g) does not therefore fall to be considered.

R Satheesan

INSPECTOR