



Appeal Decision

Site visit made on 22 October 2024

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2024

Appeal Ref: APP/G5750/C/22/3312841

480 Katherine Road, Forest Gate, London E7 8DP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Yunus Vali against an enforcement notice issued by the Council of the London Borough of Newham.
 - The notice was issued on 14 November 2022.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the ground floor to two self-contained units of residential accommodation, facilitated by the erection of a ground floor rear extension.
 - The requirements of the notice are to:
 1. Cease the use of the ground floor of the property as self-contained units of residential accommodation.
 2. Remove from the ground floor of the property all kitchens, bathroom, internal dividing doorways and internal partitioning that solely facilitates the use as self-contained units of residential accommodation.
 3. Demolish the rear extension (as shown in the approximate location edged in blue on the plan attached to the enforcement notice) and return the affected elevations to their form prior to the unauthorised works.
 4. Remove from the site all debris arising from compliance with steps 1, 2, and 3.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by deleting the allegation in section three of the enforcement notice (the breach of planning control alleged) and replacing it with the following:

Without planning permission, operational development consisting of the erection of a ground floor rear extension and the material change of use of the ground floor to two self-contained units of residential accommodation.

2. Subject to the correction, the appeal is allowed insofar as it relates to the ground floor rear extension 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 erection of a ground floor rear extension at 480 Katherine Road, Forest Gate, London E7 8DP as shown in the approximate location edged in blue on the plan attached to the enforcement notice.
3. The appeal is dismissed, and the enforcement notice is upheld as corrected insofar as it relates to the material change of use of the ground floor to two self-contained units of residential accommodation at 480 Katherine Road, Forest Gate, London E7 8DP and planning permission is refused on the

application deemed to have been made under section 177(5) of the 1990 Act (as amended).

The Enforcement Notice

4. The allegation refers to the extension facilitating the use; however, it is fundamental to the change of use and is operational development in its own right. I have therefore corrected the allegation to reflect that the development is the erection of an extension and the material change of use of the ground floor to two self-contained units of residential accommodation.
5. There is no injustice to the parties since the reasons for issuing the notice refer to the perceived harm caused by the extension, upon which the appellant had the opportunity to make a case.

Preliminary Matter

6. The terms of the appeal on ground (a) derive directly from the alleged breach of planning control set out in the notice. Nevertheless, I do have the power under section 177(1)(a) of the 1990 Act to grant planning permission for any part of the matters stated in the notice.

The appeal on ground (a) the deemed planning application

7. The main issues are (i) the standard of accommodation (ii) the effect of the extension on the character and appearance of the area.

Standard of accommodation

8. The unit of accommodation towards the front of the property, referred to by the Council as flat A, consists of a bedroom to the front with a window overlooking the street, bathroom and narrow galley style kitchen which has no window. There is also a room at the rear which was in use for storage. Given the limited windows and outlook, the arrangements offer a particularly gloomy living environment.
9. The Nationally Described Space Standard (NDSS) sets out that a one-bedroom, one-person single storey dwelling should provide a minimum gross internal floor area (GIA) of 37sqm. For a one bedroom two-person single-storey dwelling the minimum GIA is 50sqm. The Council stated that the GIA of flat A is approximately 25sqm, which is not disputed by the appellant. This is a significant shortfall and combined with my observations, the flat does not provide adequately sized accommodation for occupants, resulting in inappropriate residential quality.
10. The Council stated that the GIA of flat B is around 57sqm which exceeds the standard for a one-bedroom, two-person single storey dwelling. Occupants also have access to a yard at the rear. However, the rooms, except for the bathroom and galley kitchen, are awkwardly narrow and the only outlook is from a window in the room at the rear, with other rooms served by small rooflights. The overall result is a poor-quality place, which is below the standard of living conditions that occupants could expect from a self-contained unit of accommodation.
11. For the reasons given, the units do not provide satisfactory living conditions for occupants. They do not represent good quality design and are contrary to policies D3 and GG4 of The London Plan 2021 and policies H1, SP2 and SP3 of

the Local Plan¹. Together these require high quality design and good quality homes which deliver appropriate outlook and amenity, and which achieve indoor and outdoor environments that are comfortable and inviting for people to use. There is also conflict with the National Planning Policy Framework (the Framework) which seeks to ensure a high standard of amenity for existing and future users of buildings.

12. Moreover, occupants have no access to secure cycle parking, and there is no evidence that this could be provided, contrary to Policy T5 of The London Plan 2021 and INF2 of the Local Plan.

Character and appearance

13. The extension has a straightforward flat roof appearance. The rear elevations of properties in this and surrounding terraces include extensions of varying appearance, including single storey flat roofed extensions. Views of the extension are largely limited to upper floor windows of surrounding properties; it is not visible in wider public views. Accordingly, and viewed in this context the extension causes no material harm to the character and appearance of the area.
14. There is therefore no conflict with the overall design aims of Policy D3 of The London Plan 2021, Policy SP3 of the Local Plan or the Framework.

Other matters

15. The Council referred to a number of policies from The London Plan 2021 and the Local Plan, the strategic aims of which are not directly relevant to the detailed considerations in this case.

Conclusion on ground (a)

16. For the reasons given, I find that the use as two self-contained units of residential accommodation is unacceptable. However, since I have found no harm in respect of the erection of the extension, I consider it is appropriate to issue a split decision. I therefore intend to grant planning permission under section 177(5) of the 1990 Act for the ground floor rear extension only.
17. Since the development is externally complete no conditions are necessary.
18. Although planning permission has been granted in respect of part of the development enforced against, the notice has been upheld without varying any requirements, since this could have given rise to two separate planning permissions, namely the one that has been granted in this appeal decision and the one that would be deemed to be granted by section 173(11) due to under-enforcement.

Conclusion

19. For the reasons given, I conclude that the appeal should succeed in part only, and I will grant planning permission for the ground floor rear extension as shown in the approximate location edged in blue on the plan attached to the enforcement notice, but otherwise I will uphold the notice with a correction and refuse to grant planning permission in respect of the use of the ground floor as two self-contained units of residential accommodation. The

¹ Newham Local Plan 2018 A 15 year plan looking ahead to 2033

requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the 1990 Act (as amended).

Felicity Thompson

INSPECTOR