

Appeal Decision

Site visit made on 21 November 2016

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23rd November 2016

Appeal Ref: APP/U5930/D/16/3159294

31 Simmons Lane, Chingford, London E4 6JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Domatilla Mahendrakumaran against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 161816, dated 6 June 2016, was refused by notice dated 13 July 2016.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant was afforded an opportunity to clarify an apparent discrepancy in the drawings and confirmed that the side parapets of the proposed extension would be 3m in height. As such, the maximum height of the side elevations of the proposed extension would be 3m and not 2755mm as annotated on the drawings.
3. The provisions of the GPDO¹ require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made in the same manner.

Reasons

4. The submitted drawings show that the proposed development would be a single storey extension 4m deep with a hipped roof 3.53m high at its maximum point. The eaves would be about 2.75m high with a parapet above extending the height of the extension to 3m. The parapet would prevent rainwater spillage into the neighbouring property. The extension would be set in off the boundary with 29 Simmons Lane, which is the other property in the semi, by 150mm.
5. Having notified neighbouring occupants of the proposed development, an objection was received by the Council from the occupants of 29 Simmons Lane (No. 29). The implication of this was that the Council's prior approval is required in respect of the possible effect of the appeal scheme on the amenity of neighbouring premises. This was refused because the Council considered the proposal would harmfully affect the outlook and level of sunlight entering No. 29.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

6. The Council considered the effect on the amenity of the occupants of 33 Simmons Lane would be acceptable, a conclusion I share given the distance between this property and the proposed extension.
7. The rear elevation of No. 29 broadly mirrors that of the appeal property. This has resulted in the patio doors at No. 29 being positioned close to the boundary. Due to the proposed depth, height and proximity to the boundary of the proposed extension, it would be highly conspicuous from the room served by the patio doors and from the space directly outside. This is because the extension would be significantly higher than the existing fence panel². The proposal would therefore dominate the outlook from these positions by creating an overbearing sense of enclosure. Such an impact would be harmful on the living conditions and amenity of the occupants of No. 29.
8. The appellant has suggested that the impact would be similar to an extension built to adhere to the restrictions and limitations of Class A of the GPDO, which can permit single storey extension up to 3m deep with 3m high eaves. However, the combined effect of the height and depth of the proposed development, along with its proximity to the boundary, would be such that the appeal scheme would harmfully erode the outlook from No.29. This would be a materially different effect to any extension constructed under Class A of the GPDO but outside of the prior approval process. As such, the presence of a potential fall-back position that would have a lesser impact on the outlook from No. 29 does not alter my findings in this respect or justify the appeal scheme.
9. The Council have suggested that the appeal scheme would result in a harmful loss of sunlight penetration to No. 29 but the Council have not explained the rationale behind this conclusion. The extension would be located on the western side of No. 29 and therefore No. 29 would retain a southerly aspect uninterrupted by the proposed extension. This would allow ample morning sunlight. Furthermore, the single storey scale of the extension means it is unlikely to harmfully block afternoon or evening sunlight. I have not been presented with substantive evidence to suggest otherwise.
10. The occupants of No. 29 are concerned the proposal would harm their 'rights of light', which can be interpreted to include daylight. Nevertheless, the single storey nature of the structure would suggest the level of daylight entering No. 29 would be reasonable. Again, no substantive evidence, including any analysis against good practice guidance, has been presented to indicate otherwise. As such, the appeal scheme's effect on sun and day light would be acceptable.

Conclusion

11. Whilst the appeal scheme would not harm the level of day and sunlight entering No. 29, this would not overcome the harm that would otherwise arise to the outlook from that property. Consequently, for the reasons given above I conclude that the appeal should be dismissed.
12. The concerns outlined by the occupant of No. 29, regarding the use of the appeal property and the erection of garden structures, are matters that fall outside the scope of this appeal. Accordingly, they have had no bearing on my conclusion.

Graham Chamberlain, INSPECTOR

² Or any boundary treatment that could possibly be erected by exercising permitted development rights