
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: 25th November 2016

Appeal Ref: APP/U5930/D/16/3158765
5 Hervey Park Road, London E17 6LJ

- 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 Mr Cristinel Dascalu against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 161815, dated 6 June 2016, was refused by notice dated 12 July 2016.
 - The development proposed is a single storey rear/infill extension.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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

3. The proposed development would encompass a single storey flat roofed extension shown on the submitted drawings as being 5.23m deep and 2.55m high. The extension would be finished in matching materials and would span the entire width of the existing side return. As such, its flank wall would effectively mark the boundary of the appeal site and 7 Hervey Park Road.
4. Having notified neighbouring occupants of the proposed development, an objection was received by the Council from the occupants of 3 Hervey Park Road, but not the occupant of 7 Hervey Park Road (No. 7). The implication of the objection being that the Council's prior approval was required in respect of the appeal scheme's effect on the amenity of all neighbouring premises, not just the amenity of the occupants of 3 Hervey Park Road.
5. The Council refused to give its prior approval because it considers the proposal would harmfully affect the outlook from No. 7 as well as the level of sunlight entering the property. The Council considered that any effect on the amenity of the occupants of No. 3 would be acceptable. I share this conclusion because

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

the existing rear projection at the appeal site would screen the proposed development from the direction of No. 3.

6. The rear elevation of No. 7 broadly mirrors that of the appeal property. This has resulted in a ground floor window at No. 7 being positioned close to the boundary with the appeal site. As a result of the appeal scheme, this window would be sandwiched between the proposed extension and the existing rear projection of No. 7. This would create a 'tunnelling' effect that would result in a harmful sense of enclosure for the occupants of No. 7 when in the room served by this window.
7. The structure would be higher than the existing fence as well as any boundary treatment that could possibly be erected by exercising permitted development rights (see Part 2 of the GPDO). As such, the combined effect of the proposed extension's depth, height and proximity to the boundary would result in a highly conspicuous addition that would appear overbearing when viewed from No. 7. This would harmfully diminish the outlook from this property.
8. The Council have suggested that the appeal scheme would result in a harmful loss of direct sunlight penetration into No. 7. However, the Council have not explained the rationale behind this conclusion. The extension would be single storey and located on the northern side of No. 7. It would not, therefore, harmfully block any direct sunlight from entering this property.
9. There is no substantive evidence before me to suggest the level of daylight entering neighbouring properties, or the privacy of adjoining occupants, would be adversely affected by the appeal scheme. However, the absence of harm when considering these matters is not sufficient to outweigh the harm that would arise to the occupants of No. 7 from a harmful reduction in outlook.

Other Matters

10. The appellant has suggested that the appeal site would retain adequate amenity space to serve the occupants of the appeal property. Whilst this may be the case, it is not a determinative matter in this appeal as I can only consider the effect of the appeal scheme on neighbouring premises.
11. Hervey Park Road is a residential street in a dense urban area predominately characterised by terraced housing. I observed that many of the properties in the vicinity of the appeal site have been extended to the rear. But I also observed that these properties have generally retained at least part of the side return free of development. There is nothing before me to suggest my observations are not a fair reflection of the built form of the area and thus an indication of the general impact on residential amenity found between properties. Consequently, the appeal scheme would not be a common form of development in the immediate locality of the appeal site and its impact on No. 7 would be atypical.

Conclusion

12. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR