The Planning Inspectorate

Appeal Decision

Site visit made on 10 January 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 15 February 2017

Appeal Ref: APP/U5930/D/16/3160116
17 Claude Road, Leyton, London E10 6NG

- 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 Mr Tim Frost against the decision of the Council of the London Borough of Waltham Forest.
- The application Ref 162027, dated 22 June 2016, was refused by notice dated 17 August 2016.
- The development proposed is single storey rear extension, demolition of rear bay window, and minor alterations.

Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension, demolition of rear bay window, and minor alterations at 17 Claude Road, Leyton, London E10 6NG, in accordance with the terms of the application, Ref 162027, dated 22 June 2016, subject to the following conditions:

    1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

    2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 53/PL01, 53/PL02, 53/PL03, 53/PL04, 53/PL05, 53/PL06, 53/PL07, 53/PL08, 53/PL09, 53/PL10 and 53/PL11.

    3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building with the exception of the green roof element.

Main Issues

2. The main issues are the effect of the proposed development on:

    - the character and appearance of the existing dwelling and the area; and,
    - the living conditions of the occupants of neighbouring properties at 15 and 19 Claude Road, with particular regard to outlook and sunlight.

Reasons

Character and appearance

3. The appeal property is a two storey terraced house in a residential area. It stands on a narrow rectangular plot. At the rear of the property, there is an

existing extension from the outrigger into the garden. The proposal would replace the existing extension with a new single storey extension.

4. The depth of the proposed structure would be about the same as the existing extension, which appears to have been in situ for some time, albeit that the Council do not have a record of planning permission for it. At about 3.8 metres, it would be deeper than the extensions of the neighbouring properties at Nos 15 and 19, which the Council advise are less than 3 metres. That 3 metre figure is referred to as a 'rule of thumb' in the Council's Residential Extensions and Alterations Supplementary Planning Document,[1] but it is discussed in relation to possible effects on the living conditions of neighbours. Given the proposal's sympathetic design, its sloping green roof and that it is no deeper than the existing extension, I do not consider that the difference of less than a metre with the guide figure would have an adverse effect on character and appearance.

5. It would be about 3.5 metres at its highest but slope down to 2.4 metres at the eaves. The appellant advises that the main house is approximately 8 metres to its ridge and 5.3 metres to the eaves, figures that have not been disputed. Therefore, the proposal would be less than half the height of the existing building and not significantly different in height from the extensions to neighbouring properties on either side.

6. The main difference between the proposal, the existing extension and those at Nos 15 and 19, is that it would extend beyond the width of the existing outrigger, and across to the boundary with No 19. Whilst the design is different from other more traditional box-like extensions in the area, the overall increase in width and graduated height is not excessive. Its size and scale would be also be dissipated by the attractive sloping green roof with skylight. The external walls would be finished in materials to match the existing building. Consequently, the extension would appear subservient to and in keeping with the host building and, therefore, be in accord with that aspect of Policy DM4 of the Council's Development Management Policies (DMP).[2]

7. Though the Council says that it would add bulk to the existing building, it accepts that the site would not be considered overdeveloped as a result of the proposal. Moreover, as it would be a rear extension on a terraced property, it would not be seen from the road. Garden fences and vegetation would also limit other views, whilst the sloping green roof and use of glazing would soften its effect. In any event, though the design is modern, I do not consider that it would be out of keeping with the form or pattern of development in the area in terms of perception of bulk or massing.

8. The above factors lead me to conclude that the proposal would not harm the character and appearance of the existing dwelling or the area. It follows that it would not be contrary to the provisions of Polices CS2 or CS15 of the Waltham Forest Local Plan Core Strategy (CS)[3] or Policies DM4 or DM29 of the DMP which require, amongst other things, that development should be of high quality design, respond to local context and character and that residential extensions should relate to the host building. Neither do I find that the proposal significantly conflicts with guidance within the Supplementary

[1] Adopted February 2010
[2] London Borough of Waltham Forest Development Management Policies Local Plan Adopted 2013
[3] Adopted March 2012

Planning Documents on Residential Extensions and Alterations or Urban Design (2010).

9. Policy DM32 is cited in the Council's decision notice as relevant to character but it is primarily concerned with effects on living conditions. Therefore, I do not find it relevant to the issue of character and appearance.

Living Conditions

10. As already discussed, the proposal would extend across the width of the garden and meet the boundary with No 19, closing off the path along the side of the outrigger to the garden. A section of the current boundary fence would be replaced by the side elevation of the new extension.

11. The extension would be seen from the side bay window and some other ground and upper floor windows of No 19. The side wall would, however, only be marginally higher than the existing high fence. Though the wall would on the boundary rather than standing where the current extension wall is, about a metre or so further away, it would be lower than that wall due to the sloping roof design. Therefore, whilst it would be visible from No 19, the change of view from those windows would not be enclosing.

12. The green roof design would also help to visually integrate the part of the roof that would be seen with the garden area beyond. Furthermore, the redesign of the side bay window at the appeal property, the slightly lower fence height and proposed trellis, would increase the sense of space in that narrow area between the two properties. Consequently, overall I do not consider that the proposal would significantly increase any sense of enclosure or create an overbearing structure. Therefore, it would not detrimentally affect the outlook from No 19.

13. I am also satisfied that there would be no material effect on sunlight reaching No 19 and note that the Council Officer's report does not specifically refer to such an effect on that property.

14. To the south west, No 15 adjoins the appeal site and the Council has expressed concern about outlook and overshadowing referring to the 45 degree rule. The side elevation of the extension would be about 3.5 metres tall, at its highest point adjoining No 15. It would extend approximately 1.4 metres beyond the wall of the existing extension at No 15.

15. The small window on the adjoining extension at No 15 is on the far side of its rear elevation and inset. It was not clear to me whether the window serves a habitable room. In any case, because of its position, views from it of the side wall of the extension would be relatively oblique. Therefore, I do not consider that it would have an overbearing effect if seen from that window.

16. The side elevation and roof of the extension would be in view from the upper floor rear window of No 15. However, the sloping green roof would also be an improvement on the existing view of the flat roof of the current extension at the appeal site. In any case, the view looking out would not be intrusive or overbearing.

17. Whilst the existing extension may not have had planning permission, it appears to have present for a period of time. Therefore, the change perceived by adjoining occupiers would be between what currently exists and what would be built to replace it. I do not consider that the change would have a detrimental

effect. In any event, even if the existing extension had never been present, I do not find that that the proposal would have an adverse effect on outlook.

18. With regard to overshadowing, the sunlight assessment provided by the appellant shows no marked impact on No 15, accepting that it includes the current extension. Therefore, even if the '45 degree rule' would be technically infringed; it does not appear that the transgression would have a material adverse effect.

19. Though I do not place great weight on it, I also note that there have been no objections or representations regarding the proposal from neighbours.

20. Overall therefore, I conclude that the proposed development would not harm the living conditions of the occupants of neighbouring properties at 15 and 19 Claude Road, with particular regard to outlook and sunlight. Therefore, the proposal would not conflict with Polices CS2, CS13 or CS15 of the CS or Policies DM4 or DM32 of the DMP, insofar as they require high quality design, the avoidance of negative health impacts and the protection of the living conditions of neighbours, including daylight or sunlight and outlook.

21. Policy DM29, whilst concerning design, is more directed at its effect on character and appearance and is not, in my view, relevant to a consideration of living conditions.

Conditions

22. The Council have indicated the conditions which they believe to be necessary. A condition setting a time limit for the commencement of the development is a statutory requirement. For the avoidance of doubt and in the interests of proper planning, a condition requiring the development to be carried out in accordance with the approved plans is appropriate. A condition regarding materials is necessary to protect the character and appearance of the host building and the area.

Conclusion

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

Jonathan Tudor

INSPECTOR