

# Appeal Decision

Site visit made on 18<sup>th</sup> January 2017

**by Alison Roland BSc DipTP MRTPI**

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

**Decision date: 23 February 2017**

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**Appeal Ref: APP/U5930/D/16/3161217**

**27 Myrtle Road, Walthamstow, London, E17 8BX.**

- 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 KLM Property Ltd against the decision of Waltham Forest London Borough Council.
  - The application Ref: 161668, dated 17 May 2016, was refused by notice dated 3 August 2016.
  - The development proposed is retrospective planning application for a ground floor rear extension.
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## Procedural Matter

1. The extension has already been built and I shall determine the appeal based on what I saw on site. In addition, as I was unable to see clearly over the boundary, I visited the adjacent property No 29 Myrtle Road and viewed the appeal site from the interior of that property.

## Decision

2. The appeal is allowed and planning permission is granted for retrospective planning application for a ground floor rear extension, at 27 Myrtle Road, Walthamstow, London, E17 8BX, in accordance with the terms of the application Ref: 161668, dated 17 May 2016, subject to the following condition:
  - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), (with or without modification), no additional windows or other openings shall be inserted in the side elevation of the extension facing No 29 Myrtle Road.

## Main Issues

3. The main issues in this appeal are the implications of the proposal for (1) the character and appearance of the area and (2) the living conditions of occupiers of No 29 Myrtle Road in terms of the potential for overbearing effects and loss of outlook and sunlight.
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## Reasons

4. The extension has a contemporary design with flat roof and extensive area of glazing in the rearward elevation. Notwithstanding this, it does not appear out of context with the modern appearance of the rear of this property, which has been subject to a recent roof extension. Moreover, there is a miscellany of different extensions to the rear of the houses on Myrtle Road and Acacia Road beyond, including some with a not dissimilar appearance to the appeal proposal. In this context, it appears unremarkable. The Council say that it would exceed the 3 metres in depth advocated for rear extensions in the Supplementary Planning Document: *Residential Extensions and Alterations* (2010) (SPD), but is clear that is a "rule of thumb" dependant on site circumstances. In this particular case, as the extension has a rearwards projection the same as the extension to the adjoining property No 25 Myrtle Road, it does not appear excessively deep.
5. I thus find in relation to the first main issue that the proposal integrates comfortably with the character of the host property and wider character and appearance of the area. I therefore find no conflict with Policy CS15 of the Waltham Forest Core Strategy 2012 (CS), Policies DM4 and DM29 of the London Borough of Waltham Forest Development Management Policies Local Plan (2013) (DMP), or the guidance in the *Urban Design* Supplementary Planning Document (2010), which seek to secure high quality urban design which relates to the host building and respects its context. However, I find Policy CS2 which deals with improving the quality of homes, through amongst other things, securing quality design in new housing development, to be irrelevant to the appeal. Policy DM32 cited in the first reason for refusal relates to the impact of development on neighbouring occupiers and is thus not relevant to my consideration of this particular issue.
6. In relation to the second main issue, the Council refer to the impact of the extension on a rearward facing window to No 29 Myrtle Road. The extension has been built up to the common boundary with that property and projects considerably beyond the nearest ground floor opening, which is in fact a fully glazed door. This serves a living kitchen area which also has a set of patio doors (built into a rearwards extension) facing the rear garden, as well as a substantial roof light immediately to the rear of the glazed door.
7. The extension is visible from the glazed door, but as this is effectively a secondary opening to the room (the main outlook being derived from the larger patio doors), I do not consider it is unduly oppressive or overbearing in relation thereto, nor has a significant impact on the outlook therefrom. Moreover, given the multiple sources of light serving this room and as the patio doors are set away from the boundary with the appeal property, I do not accept that the proposal has any appreciable impact on the sunlight reaching it or indeed, the outlook from the patio doors.
8. In coming to this view, I am mindful that the extension breaches the 45 degree "rule" set out in the *Residential Extensions and Alterations* SPD, but it is clear that this is simply to be used as a guide in determining the acceptability or otherwise of proposals. In this case, for the reasons given, I consider the proposal has an acceptable impact on the occupiers of No 29 Myrtle Road. I thus find no conflict with the relevant provisions of Policy CS13 of the CS and

Policies DM4, DM29 and DM32 of the DMP, which seek to ensure that development protects occupiers of neighbouring properties from suffering any excessive loss of residential amenity through amongst other things, loss of light or outlook. However, I find nothing in Policy CS15 (which relates to the aesthetic aspects of design), which the proposal would conflict with and the Council have not drawn my attention to any specific aspect of the *Urban Design* SPD which is relevant to this particular issue.

9. In addition to the standard time limit for commencement of development, the Council suggest conditions requiring compliance with the approved plans and the use of matching materials. Neither of these are appropriate as the development is substantially complete and I have found its appearance acceptable. In order to protect the privacy of occupants of No 29 Myrtle Road, I have attached a condition withdrawing permitted development rights for the future insertion of windows in the side elevation facing that property. The main parties were canvassed; the Council declined to comment and the appellant raised no objection.

*ALISON ROLAND*

INSPECTOR