

Appeal Decision

Site visit made on 26th March 2017

by Alison Roland BSc DipTP MRTPI

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

Decision date: 26 April 2017

Appeal Ref: APP/U5930/D/17/3168446

46 Wellington Road, Walthamstow, London, E17 6LP.

- 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 Gregory Mallard against the decision of Waltham Forest London Borough Council.
 - The application Ref: 163198, dated 28 September 2016, was refused by notice dated 13 December 2016.
 - The development proposed is refurbishment of existing extension made years ago with poor quality. Single storey rear extension, which would extend beyond the rear wall of the original house by a maximum of 3m, and which the maximum height would be 2.99m, and for which the height of the eaves would not be more than 2.7m.
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Procedural Matter

1. Notwithstanding the description of the proposal cited in the header above (derived from the application forms), I consider a more accurate description of the proposal is retrospective permission for single storey rear extension.

Decision

2. The appeal is allowed and retrospective planning permission is granted for single storey rear extension, at 46 Wellington Road, Walthamstow, London, E17 6LP, in accordance with the terms of the application Ref: 163198, dated 28 September 2016, subject to the following conditions:
 - 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 windows, or other openings shall be inserted in the flank (side) walls of the extension hereby approved without express planning permission.
 - 2) 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), the roof of the extension hereby approved shall not be used as a sitting out or similar amenity area without further express planning permission.
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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 44 Wellington Road by virtue of the potential for oppressive overbearing effects and loss of outlook.

Reasons

4. The extension was complete at the time of my visit and comprises an L-shaped single storey addition to the property extending around 6.8 metres from its inset rear elevation and 3 metres from the two storey rear outrigger.
5. Whilst its depth and width spanning the full width of the appeal property are not insubstantial, I nonetheless consider that its single storey form renders it a subordinate addition to the host dwelling. Its design with a flat roof and roof lights, together with full width bi-folding doors on the rear elevation lend it an uncompromisingly modern appearance. Nevertheless, given the boxy form of numerous other extensions in the immediate vicinity, including box dormers and other single storey flat roofed extensions, such that at No 22 Ickworth Park Road to the rear of the appeal site, I cannot accept that it looks out of place. Indeed, given the evidence in relation to the pre-existing structure on site, which had a somewhat shoddy and piecemeal appearance, the proposal represents a visual improvement, despite its slightly larger size.
6. I thus find in relation to the first main issue, that the proposal would comply with the relevant provisions of Policy CS15 of the Waltham Forest Local Plan Core Strategy (2012) (CS) and Policies DM4, DM29 and DM32 of the London Borough of Waltham Forest Development Management Policies Local Plan (2013) (LP), along with the guidance in the *Residential Extensions and Alterations* Supplementary Planning Document (2010). These seek to secure high quality design which improves or at least maintains the character of both individual dwellings and the wider townscape within which they are situated.
7. In relation to the second main issue, I share the Council's view that the substantial depth and height of the extension running along the common boundary with No 44 Wellington Road results in an overbearing and oppressive sense of enclosure in relation to that property. It will also have something of a tunnelling effect on the outlook from the window in the inset rear wall of that property at ground floor, as well as an oppressive effect on a ground floor facing window in the side of the rear outrigger. It is not at all clear what rooms these openings serve, but based on my experience of similar properties, they are likely to serve a rear living/dining room and window to the kitchen or similar combination.
8. The proposal would thus not comply with the guidance in the *Residential Extensions and Alterations* Supplementary Planning Document (2010) which seeks to avoid the infilling of the L-shape to the rear of traditional terraced properties, in order to avoid a tunnelling effect on neighbours. It would also fail to comply with the relevant provisions of Policies DM4, DM29 and DM32 of the LP, which require proposals to address their potential impact on neighbouring amenity. Nevertheless, I see nothing in Policy CS15 of the CS which is relevant to this particular issue.

9. However, that is not the end of the matter, because the evidence submitted on behalf of the appellant demonstrates the existence of former extension(s) in broadly the same position as the appeal proposal. This includes a number of photographs taken from various vantage points depicting an extension apparently built in a number of stages. The Council do not dispute this existence and refer to the extension as having a maximum height of 2.7 metres. The evidence suggests that it was in place immediately prior to the current proposal being implemented, as it was demolished the Council say, to facilitate its development. To my mind, the pre-existing extension constitutes a key material consideration in this case.
10. The Council say that the previous extension was not lawfully built, whilst the appellant asserts it had become lawful through the passage of time. Either way, the evidence suggests it had been insitu for some years and whatever its lawful status, it would have had an overbearing impact and adverse sense of enclosure on the occupants of No 44.
11. The available evidence suggests that the extension now built is slightly longer (by around 400mm) than its predecessor and also slightly higher (in the region of 300mm). However, I consider these differences are minor in terms of the relative impact on No 44. The occupier of that property also expressed concern at the application stage about overshadowing and loss of light. Nonetheless, I consider that the proposal would not be materially worse in this regard than its predecessor. Overall on this issue and notwithstanding my findings at paragraphs 7 and 8 above, I give substantial weight to the existence of the former extension on site.
12. The appellant cites comparisons with single storey extensions permissible under the Town and Country Planning General Permitted Development Order 2015. However, larger rear extensions such as is the case here, are subject to a prior approval procedure whereby the Council must take into account the impact on nearby properties. This being the case, I give this matter very limited weight.

Overall Planning Balance

13. I have found in favour of the appeal in relation to the first main issue and indeed, consider that the appearance of the extension as built represents some improvement on its predecessor, despite its slightly larger size. This finding weighs in favour of the appeal. Whilst I have concerns in relation to the second main issue about the impact of the proposal on the living conditions of occupiers of No 44 Wellington Road, on the available evidence, I consider the appeal proposal is not likely to be appreciably worse in this regard than the impact of the pre-existing extension on the site. The Council also cite concerns in the delegated report about the remaining rear garden size. Nonetheless, no specific policy guidance on minimum garden sizes has been brought to my attention and I consider the remaining rear garden is adequate to serve the property.
14. For these reasons, I conclude that the appeal should succeed.
15. No conditions were suggested by the Council. However, in the interests of the living conditions of surrounding residents, I consider conditions withdrawing permitted development rights for the insertion of windows in the side elevations of the proposed extension and precluding the use of its roof as a sitting out

area, are necessary. The main parties were canvassed in relation to these conditions and raised no objections.

ALISON ROLAND

INSPECTOR