



Appeal Decision

Site visit made on 21 June 2017

by Mike Hayden BSc DipTP MRTPI

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

Decision date: 04 July 2017

Appeal Ref: APP/U5930/D/17/3175933

5 Church End, Walthamstow, London E17 9RJ

- 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 Miss Abigail McLachlan against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 164068, dated 9 March 2016, was refused by notice dated 23 March 2017.
 - The development proposed is a side return extension to the rear of the property, which would extend the rear of the property across the width of the current house and the dimensions of the proposed extension are 3.275m (l) x 1.550m (w). In addition, there will be an addition of a skylight to the existing roof to create light in the stairwell, plus some internal works (addition of a toilet upstairs and creating a corridor to back room).
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Decision

1. The appeal is dismissed insofar as it relates to the side return extension to the rear of the property. The appeal is allowed insofar as it relates to the skylight and planning permission is granted for the addition of a skylight to the existing roof at 5 Church End, Walthamstow, London E17 9RJ in accordance with the terms of the application, Ref 164068, dated 9 March 2016, and 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: CE-PL000 Rev 01, CE-PL001 Rev 01, CE-PL101 Rev 01, CE-PL002 Rev 01, CE-PL102 Rev 01, CE-PL030 Rev 01, CE-PL130 Rev 01, CE-PL050 Rev 01 and CE-PL150 Rev 01.

Procedural Matter

2. I note from the appellant's statement that the planning application which is the subject of this appeal was submitted on 26 January 2017. However, the date on the application form submitted with this appeal is 9 March 2016. Accordingly, I have used this in the banner heading and the decision above to ensure this decision relates to the details on the submitted application form.

Main Issues

3. The main issues in the this appeal are:
 - Whether or not the proposed extension would preserve or enhance the character and appearance of the Walthamstow Village Conservation Area, with particular regard to its effect on the nearby Walnut tree; and

- The effect of the proposed extension on the living conditions of the occupiers of the neighbouring property at 6 Church End, with particular reference to outlook.

Reasons

Walnut Tree

4. The appeal property is located within the Walthamstow Village Conservation Area. There is a mature Walnut tree within the rear garden, the stem of which is approximately 4 metres (m) from the rear building line and the site of the proposed extension. Trees in conservation areas are subject to protection under the 1990 Act. Policy DM28 of the Waltham Forest Development Management Policies Local Plan (2013) (the DMPLP) seeks to preserve any tree which contributes to the character and appearance of a conservation area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
5. The Walnut tree is substantial in size, with a large crown, which reaches well above the roof of the appeal property. Due to its height and spread it is very visible from Orford Road, forming part of the mature landscape between the houses in Church End and 4-12 Orford Road. The tree is an attractive specimen, which makes a positive contribution to the visual amenity, character and appearance of the Conservation Area.
6. The Design and Access Statement submitted with the application suggests that the proposed extension would not encroach on the Walnut tree any more than the current dwelling. However, I have no substantiated arboricultural evidence before me to demonstrate this would be the case. The canopy of the tree overhangs the side return where the proposed extension would be built. Therefore, it is possible that the root system of the tree could extend into the site of the proposed extension and that construction work could affect the roots of the tree, resulting in lasting damage to its health and the eventual loss of the tree.
7. BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations advises that structures should be located outside of root protection areas of trees to be retained. I note that the appellant suggests a condition requiring an arboricultural method statement to ensure this. However, such an approach presumes that the roots of the tree could be protected and there is insufficient evidence before me to demonstrate this. Accordingly, I find that the proposed extension would threaten the loss of the Walnut tree, which in turn would harm the character and appearance of the Conservation Area.
8. Paragraph 132 of the National Planning Policy Framework (the Framework) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a conservation area, great weight should be given to the asset's conservation. Paragraphs 133 and 134 of the Framework go on to say that where a proposed development will lead to either substantial or less than substantial harm to a designated heritage asset, consent should be refused, unless outweighed by public benefits. Although in this case the harm would be less than substantial, I am not aware of any public benefits arising from the proposed extension.

9. On this basis, I conclude that the proposed extension would fail to preserve or enhance the character and appearance of the Walthamstow Village Conservation Area. Therefore, it would be contrary to Policy DM28 of the DMPLP and would conflict with paragraphs 132-134 of the Framework.

Living Conditions

10. The proposed extension would infill the side return between the rear outrigger on the appeal property and the boundary with 6 Church End. It would be single storey, measuring approximately 3.3m in length and 2.1m to its eaves, with a glazed lean-to roof. There is an existing 1.8m fence along the boundary with no. 6, which it appears would be replaced by the side wall of the extension.
11. The house at no. 6 has a lean-to porch over the door to the kitchen, with a patio and outdoor seating area beneath the porch, on the side of the property adjacent to no. 5. The principal ground floor habitable room windows at the rear of no. 6 are on the other side of the property away from the boundary with no. 5 and would be largely unaffected by the proposed extension.
12. I acknowledge that the occupiers of no. 6 would be faced with a new wall of around a 0.3m higher than the existing fence along a 3.3m length of the boundary with no. 5 and a glazed roof pitching away from the boundary. As such I recognise their outlook would change. However, based on my observations on site, the visual impact of this larger boundary wall and the glazed roof would be neither overbearing nor likely to create a significantly greater sense of enclosure at the rear of no. 6.
13. Accordingly, I conclude that the proposed extension would not cause unacceptable harm to the living conditions of the occupiers of 6 Church End, in terms of outlook. Therefore, it would comply with Policies DM4 and DM32 of the DMPLP, which seek to maintain outlook and avoid the loss of residential amenity for existing occupiers. Consequently, it would also be consistent with paragraph 17 of the Framework which seeks a good standard of amenity for existing and future occupants of land and buildings.
14. However, the acceptability of the proposed extension in terms of the living conditions of the occupiers of 6 Church End would not outweigh the harm which would be caused to the character and appearance of the Conservation Area if the Walnut tree were lost as a result of the extension.

Other Matters

15. I have also considered the proposal to add a skylight to the existing roof of the property to create light in the stairwell. Although part of the planning application for which the Council refused permission, it did not form part of the reasons for refusal. Given that it is clearly severable from and capable of being implemented without the extension, I have considered it separately.
16. The skylight would be positioned in the valley of the roof over the front part of the existing house. It would be behind the parapet on the front elevation and largely hidden from view from the street. Therefore, it would cause little harm to the character and appearance of the property or the surrounding Conservation Area. Its position in the valley of the roof and above the stairwell would also not lead to any overlooking of or loss of privacy for the occupiers of adjoining properties.

17. Accordingly the proposed skylight would comply with Policies DM4, DM28 and DM32 of the DMPLP. Consequently, it would also be consistent with paragraphs 17 and 132-134 of the Framework.

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed in relation to the proposed extension, but allowed in relation to the skylight, subject to the conditions explained below.
19. I have attached conditions to the planning permission for the skylight limiting the life of the permission in accordance with the requirements of the Act and specifying the approved plans for the avoidance of doubt. A condition to control the external materials used on the skylight is unnecessary given its location within the valley of the roof and hidden behind the front parapet.

M Hayden

INSPECTOR