



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/17/3174911

61 Cecil Road, Walthamstow, London E17 5DH

- 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 Mohammed Khan against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 170460, dated 7 February 2017, was refused by notice dated 15 March 2017.
 - The development proposed is a single storey rear extension to accommodate larger kitchen and dining areas which would extend 4.0 metres beyond the rear wall of the original dwelling, be a maximum height of 3.0 metres from ground level and for which the height of the eaves would be 3.0 metres from ground level.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) 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.

Main Issue

3. The main issue in this case is the effect of the proposed development on the living conditions of the occupiers of 59 Cecil Road, with particular regard to outlook, daylight and sunlight.

Reasons

4. The appeal property is a two storey semi-detached house located on the east side of Cecil Road at its junction with Billet Road. On its south side it adjoins 59 Cecil Road, and to the east the back garden of 51 Cecil Road. Both the appeal property and no. 59 have modest rear gardens.
5. The rear elevation of no. 59 is set back from the rear wall of the appeal property by approximately 1.3 metres (m). On the ground floor at the rear of no. 59 is a set of patio doors to a habitable room adjacent to the boundary with the appeal property and an existing lean-to conservatory set away from the boundary.

6. The appeal property has an existing conservatory at the rear, which extends to a depth of approximately 2.3m and up to the boundary with no. 59. The conservatory has a mono-pitched roof. Based on measurements provided by the occupiers of no. 59, which have not been challenged by the appellant, the conservatory extends to a height of 2.6m at the apex of its roof, reducing to 2.25m at its eaves. There is an existing fence on the boundary with no. 59, which is approximately 2m in height. The result is that only a small section of the existing conservatory is visible above the fence in the outlook from the rear of no. 59.
7. The proposed extension would replace the conservatory. It would be flat roofed, extending to a height of 3m and a depth of 4m along the boundary with no. 59. The result would be a wall of 1m high by 4m long rising above the height of the fence, extending from the rear wall of the appeal dwelling. Added to the existing set back, the outlook from the patio door windows of no. 59 on the northern side of the property would be dominated by a blank elevation of fence and wall of approximately 5.3m long rising to 3m in height. Based on the overall dimensions of the plot, this would extend for around one third of the length of the garden of no. 59.
8. The overall effect of this would be a significant worsening of the outlook from the ground floor rear habitable room windows of no. 59. The height and length of the wall above the fence along the boundary would create a tunnelling effect and would be overbearing on the occupiers of no. 59.
9. Given its position on the north side of no. 59, the proposed extension would not affect sunlight to the rear of no. 59. Whilst the height and length of the wall would reduce ambient daylight penetrating the patio door windows at the rear of no. 59, due to the orientation of the property the loss of daylight would not be unacceptable. However, this would not compensate for the significant harm to outlook which would be caused by the proposed extension.
10. I have considered the fallback position referred to by the appellant under permitted development rights granted by paragraph A.1 of the GPDO. This would allow for an extension of up to 3m in depth and 3m to its eaves within 2m of the boundary with no. 59. I acknowledge that this could be undertaken without the need for planning permission. However, the proposed extension is controlled by the prior approval process under the GPDO with regard to its impact on the amenity of adjoining premises. Even though it is only 1m greater in depth than what would be allowed under permitted development rights, the additional impact of the proposed extension on the amenity of the occupiers of no. 59 would make it unacceptable.
11. I have been referred to a number of other appeal decisions which allowed larger home extensions, based partly on the height of the extensions and the presence of existing boundary treatments. However, in the absence of the full details of those proposals, I cannot be certain that the circumstances of those sites and the relationship to adjoining dwellings are directly comparable with the case before me. It is a core principle of the planning system the each application is determined on its own merits. I have come to my decision based on the details of the scheme before me.
12. As required under paragraph A.4(9)(b) of the GPDO I have also considered the effect of the proposed development on the other adjoining property at 51 Cecil Road, but find no harm to the amenity of that property, due to the distance of

proposed extension from no. 51. Nevertheless, this does not outweigh the harm to the outlook and thereby the living conditions of the occupiers no. 59.

Conclusion

13. For the reasons given above and having had regard to all of the matters raised, I conclude that the appeal should be dismissed.

M Hayden

INSPECTOR