
Appeal Decision

Site visit made on 6 September 2017

by Stephen Roscoe BEng MSc CEng MICE

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

Decision date: 21 September 2017

Appeal Ref: APP/U5930/D/17/3179996

161 Middleton Avenue, Chingford, London E4 8EE

- 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 Ersan Hassan against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 171038, dated 21 March 2017, was refused by notice dated 30 May 2017.
 - The development proposed is a rear ground floor extension extending 4m from the rear of the building and 3.3m in height.
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Procedural Matters

1. The planning application described the works as an extension extending 4m from the rear of the building. The building however included a rear ground floor projection across its full width, which appears to have been included in the 4m described above. The extension has been constructed, and I consider that the application is better described in the Council's refusal reason and as set out below.
2. The Council's refusal reason refers to an adjoining property as 163 Middleton Avenue and not 21 Priory Avenue, but there is no evidence that a property known as 163 Middleton Avenue exists in this area. I am satisfied that the Council mistakenly referred to 163 Middleton Avenue instead of 21 Priory Avenue, which is the adjoining property, and that the appellant has not been disadvantaged by this mistake. I have therefore considered the appeal in relation to 21 Priory Avenue and not 163 Middleton Avenue.

Decision

3. I allow the appeal and grant planning permission for the retention of a single storey rear extension at 161 Middleton Avenue, Chingford, London E4 8EE in accordance with the terms of the application Ref 171038, dated 21 March 2017.

Reasons

4. I consider the main issue in this case to be the effect of the development on the living conditions of adjoining occupiers in relation to visual intrusion and daylight. The appeal property forms part of a terrace of dwellings. The adjoining house at No 159 Middleton Avenue is at a lower level than the house at the appeal property, as is its garden. The rear elevation of No 159

includes french doors, with side glazing, in close proximity to the boundary with the appeal property.

5. From No 159, I am satisfied that the appeal extension appears higher than a single storey due to the difference in levels between the properties, and that it is readily visible due to its depth and height. Moreover, the extension conflicts with the Council's Supplementary Planning Document (SPD): Residential Extensions¹ in that its depth exceeds a line taken at 45 degrees from the centre of the french doors and glazing of the adjoining property at No 159. From the submitted drawings, the extension does not however extend more than 3m from the rear elevation of a previous rear projection over the full width of the appeal property. This projection, from its form, materials and repetition on No 159, appears to be part of the original house.
6. The appellant has suggested that the extension could be considered as permitted development. In this regard, from the drawings submitted, the height of the extension, to its eaves, appears to be no more than 3m, the roof height less than 4m and the extent of the extension no more than 3m from the rear of the original house at this level. I therefore agree that the extension could be considered as permitted development, and this is an appropriate fall-back position in relation to the appeal. On this basis, any harm from visual intrusion is no more than could occur in any event without planning permission. The existence of this fall-back position is therefore sufficient to justify a departure from the 45 degrees rule in the Council's SPD.
7. As a result of the above factors, the appeal development does not result in an excessive loss of residential amenity to the occupiers of No 159, and this accords with Development Management Policies² (DMP) Policy DM4. The extension also: exhibits high quality design in accordance with Core Strategy³ (CS) Policy CS2; ensures satisfactory amenity for surrounding occupiers in accordance with CS Policy CS13; responds positively to its local context in accordance with CS Policy CS 15; addresses its impact on neighbouring amenities in accordance with DMP Policy DM29; maintains outlook in neighbouring homes and gardens near to rear elevations in accordance with DMP Policy DM32; and satisfactorily considers its surroundings in accordance with the Council's SPD: Urban Design⁴.
8. The house at No 21 Priory Avenue includes a large glazed opening on its rear elevation in close proximity to its boundary with the appeal property. The house at No 21 is at a higher level than the appeal house, and this reduces the extent of the appeal extension which can be seen from No 21. The extension however exceeds a line taken at 45 degrees from the centre of the nearest window of the adjoining property at No 21, and this again conflicts with the Council's SPD: Residential Extensions. The existence of the fall-back position is however again sufficient to justify a departure from the 45 degrees rule in the Council's SPD. Moreover, the reduced height of the extension on this boundary further reduces any visual intrusion. The extension therefore does not result in any unacceptable visual intrusion for the occupiers of No 21 and accords with the policies already identified.

¹ London Borough of Waltham Forest: Supplementary Planning Document: Residential Extensions and Alterations: February 2010

² London Borough of Waltham Forest: Local Plan: Development Management Policies

³ London Borough of Waltham Forest: Local Plan: Core Strategy: March 2012

⁴ London Borough of Waltham Forest: Supplementary Planning Document: Urban Design: February 2010

9. The Council has also suggested that the appeal development causes unacceptable loss of daylight to the adjoining properties. This is however not any more than could occur with the fall-back position and is therefore no reason to dismiss the appeal.
10. I therefore conclude that the appeal development does not have an unacceptable impact on the living conditions of neighbouring occupiers in relation to visual intrusion or daylight. I further conclude that it thus accords with CS Policies CS2, CS13 and CS15, DMP Policies DM4, DM29 and DM32 and the Council's SPDs on residential extensions and urban design.
11. The development has already been completed, and I see no reason to impose any conditions. Having taken into account all other matters raised, none carry sufficient weight to alter the decision, and my conclusion is based on the evidence before me in terms of policy as a whole. For the reasons given above, I therefore conclude that the appeal should be allowed.

Stephen Roscoe

INSPECTOR