



Appeal Decision

Site visit made on 28 November 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 14 December 2017

Appeal Ref: APP/U5930/D/17/3181785

15 Kitchener Road, Walthamstow, London E17 4LJ

- 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, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Mohammed Ahmed against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 172020, dated 29 May 2017, was refused by notice dated 10 July 2017.
 - The development proposed is erection of single storey rear extension 6 metres from the original building line, following demolition of existing single storey rear extension.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (the GPDO), for the erection of single storey rear extension 6 metres from the original building line, following demolition of existing single storey rear extension at 15 Kitchener Road, Walthamstow, London E17 4LJ in accordance with the terms of the application Ref 172020, dated 29 May 2017, the plans submitted with it and subject to the relevant conditions and limitations as set out in Class A of the GPDO.

Procedural Matter

2. The provisions of 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 or occupiers, taking into account any representations received. Accordingly, I have determined this appeal in the same manner.

Background and Main Issue

3. The application sought prior approval for the erection of a single storey rear extension measuring 6 metres from the original rear wall of the appeal property. The maximum height of the extension would be 3 metres with the height of the eaves no more than 2.8 metres. Therefore, the proposal complies with the limitations and requirements of the GPDO. The Council notified the adjoining occupiers of the proposed scheme and one objection was received. As a result, the Council assessed the proposal in terms of its effect on the amenity of neighbouring occupiers. In doing so, it considered that the scheme would have an adverse effect on the living conditions of the occupiers of Nos 13 and 17 Kitchener Road by reason of its overbearing impact, loss of sunlight and reduced outlook.

4. Therefore, I consider the main issue to be whether the proposed development would have an adverse impact on the living conditions of adjoining occupiers with particular regard to outlook and sunlight.

Reasons

5. The appeal property is a two storey dwelling within a terrace of similar properties on the western side of Kitchener Road and the area is predominantly residential in character. The adjacent property to the north, 17 Kitchener Road (No.17), has a similar flat roofed, single storey rear extension to that which is proposed to be replaced at the appeal property. There are no ground level rear extensions or additions to 13 Kitchener Road (No.13) which adjoins the appeal property to the south. However, there is a box dormer extension within its rear roof slope.
6. The appellant states that the property has permitted development for its existing single storey rear extension which has a depth of 3 metres from the rear wall of the original dwelling. Therefore, it is argued, the amenity impact in this case should not relate to the full 6 metre extent of the proposed extension but only to the furthest 3 metres from the dwelling which would extend beyond the existing extension. Notwithstanding this, I must assess the proposal as a whole. However, the impact of the additional extent of the proposal forms the focus of my determination of this appeal.
7. The Council indicates in its Officer Report that an amenity impact assessment was undertaken with regard to the impact of the proposal on both adjoining neighbours. However, I note that the Council's submissions provide no further detail of such an assessment. Furthermore, whilst the Council's reason for refusal focuses on the provisions of the GPDO, I have also had regard to whether the Council has cited any development plan policies or guidance in support of its decision and have found none before me.
8. Notwithstanding this, the appellant refers to Policy DM32 of the Waltham Forest Development Management Policies 2013 (DMP) document and the Council's Residential Extensions and Alterations Supplementary Planning Document 2010 (SPD). Policy DM32 requires that new development has no unacceptable harm on the residential amenity of neighbouring occupiers. The SPD provides guidance relating to single storey rear extensions, such as the appeal proposal. However, I note that the SPD was adopted in 2010, prior to the National Planning Policy Framework (the Framework) and the 2013 amendments to the GPDO. As such, whilst having due regard to the guidance within the SPD, I give no substantive weight to it in determining this appeal.
9. The proposal would extend a further three metres from the end of the extension at No.17. From what I saw on site, the neighbouring extension accommodates a kitchen and dining area with rear facing windows over the garden and a door. The proposed extension would be positioned along the shared boundary between the two properties and would be in close proximity to the rear door of No.17 which is obscured glazed. The proposal would have a blank wall extending along its north elevation and facing the garden of No.17. Notwithstanding this, I find that due to its single storey height and limited extent beyond the extension at No.17 it would not result in any significant overbearing effect or have any material adverse impact on the outlook of its occupiers from the rear of the property.
10. Furthermore, although the proposed extension would be to the south of No.17, due to its position, height and extent I find that it would have no significant detrimental impact on its adjoining occupiers with regard to diminished sunlight.

11. The neighbouring occupiers at No.13 to the south of the appeal property enjoy direct sunlight throughout most of the day. Due to its position to the north of No.13, I find that the proposed development would have no adverse impact on this. Moreover, I have had regard to the concerns of the occupiers in relation to a potential loss of sunlight in the evenings. Whilst I acknowledge that there may be a limited impact on sunlight in the late evenings during summer months in this regard, due to the single storey scale and position of the proposal, I find that it would not result in any significant loss of sunlight for the occupiers of No.13.
12. In terms of outlook, I have considered the impact of the additional element of the proposal in relation to the existing 3 metre side wall of the current rear extension to the appeal property that faces the garden of No.13. Having done so, I find that the proposal would not be overbearing and would not materially diminish the outlook of adjoining occupiers from the rear windows of No.13.
13. Having had due regard to the concerns raised and my findings on the appeal proposal, whilst the extension would be above fence height, in my view and based on my experience, I am satisfied that neither its height or its extent would be sufficient to justify a refusal to grant approval on the grounds identified. The proposal would not unacceptably diminish the amount of sunlight for adjoining occupiers to enjoy and it would have no material impact on the outlook of its adjoining occupiers.
14. The Government's amendments to permitted development rights are intended to encourage investment and development. As such, and having regard to the particular circumstances in this case, I find that the proposed extension would have no material adverse impact on the living conditions currently enjoyed by the occupiers of Nos 13 and 17 Kitchener Road by reason of loss of sunlight and outlook.
15. The Council has indicated that the development hereby permitted should accord with all the relevant conditions and limitations as set out in Class A of the GPDO. Having considered this carefully, I find this to be reasonable and necessary to ensure an acceptable development in planning terms.

Conclusion

16. Therefore, for the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed and approval granted.

Andrew McCormack

INSPECTOR