
Appeal Decision

Site visit made on 23 October 2019

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/U5930/D/19/3234962

122 The Ridgeway, Chingford, London E4 6PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Muhammed Shakeel against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 190698, dated 26 February 2019, was refused by notice dated 22 July 2019.
 - The application sought planning permission for the construction of part 1, part 2 storey rear extension with sliding doors and glass balustrade surround to the first floor extension. Construction of hip to gable side roof extension and dormer roof extension to main rear roof (with sliding doors and glass balustrade surround), together with installation of four roof lights to front roof slope. Installation of new windows at ground, first and second floors of side elevation without complying with a condition attached to planning permission Ref 183864, dated 16 January 2019.
 - The condition in dispute is No 2 which states that: "The development shall be carried out in accordance with plan titled; 01 AR-100,01-AR-e101, 01 AR-101, 01 AR-e102, 01 AR-102, 01 AR-e201, 01 AR-202, 01 ARe301, 01 AR-301, 01 AR-401, 01 AR-e401, 422 ARC-020, 422-ARC-021, 422-ARC022 and 422-ARC-023 received on 20th November 2018".
 - The reason given for the condition is: "For the avoidance of doubt and in the interests of proper planning".
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of part 1, part 2 storey rear extension with sliding doors and glass balustrade surround to the first floor extension. Construction of hip to gable side roof extension and dormer roof extension to main rear roof (with sliding doors and glass balustrade surround), together with installation of four roof lights to front roof slope. Installation of new windows at ground, first and second floors of side elevation without complying with condition 2 attached to planning permission 183864 dated 16 January 2019 and subject to the conditions in the attached schedule.

Procedural Matters and Background

2. The planning application form indicates that at the time of the submission of the application the development had not started. At my site visit I noted that the development had commenced, including the rear extension as proposed in the minor material amendment scheme. As it appears that the development was not commenced prior to the submission of the application I have dealt with

this appeal under section 73 of the Town and Country Planning Act 1990 (Planning Act).

3. Therefore, this appeal is made under section 73 of the Planning Act for a minor material amendment. It seeks, in accordance with the description on the planning application form "change to roof profile of rear ground floor extension. Extend line of flat roof by 2.5m toward boundary. Eaves height remains 2.2m at the boundary. Proposed Kitchen flank wall to incorporate existing boundary wall depth. Doors instead of window to kitchen". This type of application is possible as a condition was imposed on the original planning permission specifying the approved plans.
4. According to the Council's report a non-material amendment has been granted for the flank wall to replace the joint boundary wall between the appeal site and the attached property (124 The Ridgeway). This change appears to have been implemented on site. The Council have provided the details of the approved non-material amendment. Although I note that on the application form the description of the development includes the relocation of the flank wall, I have taken the approved non-material amendment into consideration in reaching my decision.

Main Issue

5. The main issue, having regard to the procedural matters above, is the effect that varying condition 2 would have on the living conditions of 124 The Ridgeway, with particular regard to light, outlook and overshadowing.

Reasons

6. The appeal property is a large attractive semi-detached house located in a primarily residential area. The approved extensions allow for substantial rear and roof additions to the property.
7. The approved scheme includes a single storey extension adjacent to the joint boundary with No 124 The Ridgeway (No 124). The extension was designed with mono pitched roof sloping away from the joint boundary. The approved non-material amendment altered the scheme so that the flank wall of the single storey extension would be placed on the joint boundary rather than alongside it.
8. The approved drawings, and the non-material amendment drawings, show that the single storey rear extension projects out from the original rear elevation along the joint boundary by 4.78 metres at a height of 2.2 metres. These measurements are not affected by the proposed amended scheme. However, the profile of the roof has changed whereby the flat roof is extended closer to the boundary and the area of pitched roof reduced. The pitched roof is at a steeper gradient adjacent to the boundary to allow the approved height of the flank wall to be maintained.
9. No 124 has been extended at ground floor level with a flat roofed extension away from the joint boundary. Adjacent to the boundary No 124 retains the original building line. Within this original elevation is a pair of patio doors which, I saw on site, lead from a main living space to an outdoor seating area.
10. The approved ground floor extension, and subsequent amendment, has the effect of enclosing No 124's patio area. The change to the roof design

increases the visibility of the proposed extension from the adjacent patio and garden but, does not significantly change the enclosing effect of the approved extension nor does it markedly change the neighbours outlook. Further, there would be minimal change to sunlight and light levels given the orientation of the gardens.

11. The change to the design of the rear elevation to insert patio doors is acceptable to the council and I see no reason to disagree.
12. Overall, I conclude that the alterations to the single storey rear extension, when taking into account the effect of the approved scheme, and the subsequent non-material amendment, does not have a harmful effect on the living conditions of the adjacent occupier and would comply with the requirements of Policies CS13 and CS15 of the Waltham Forest Local Plan – Core Strategy (2012) and Policies DM4, DM29, and DM32 of the Waltham Forest Local Plan – Development Management Policies (2013). Collectively these policies, among other things, seek to ensure satisfactory living conditions for surrounding properties. In addition, the Supplementary Planning Document – Residential Extensions and Alterations (2010) supports rear extensions where they are kept as low as possible adjacent to the boundary.

Other Matters

13. I note the adjacent occupier comments that the height of the flank wall would be increased to 2.5 metres, however, the scheme before me proposes a scheme where the flank wall is 2.2 metres. Additionally, I note the comments in relation to the siting of the flank wall on the boundary. The location of the flank wall, as discussed in the procedural matters above, has been agreed by the Council as part of a separate non-material amendment.

Conditions

14. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged¹. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant and have reproduced these in the schedule below. In the event that some of these conditions have been discharged, that is a matter which can be addressed by the main parties.
15. As the development has commenced, I have not re-imposed the condition requiring the development to commence within three years. Former condition 2 has been adjusted to reference the correct revised plan numbers.

Conclusion

16. For the reasons given above, the appeal succeeds, as detailed in my formal decision in paragraph 1 above.

Diane Cragg

INSPECTOR

¹ Paragraph: 040 Reference ID: 21a-040-20190723

Schedule of Conditions

- 1) The development shall be carried out in accordance with plans titled; 01-AR-e101, 01 AR-e102, 01 AR-e201, 01 AR-e301, 01 AR-e401 and plans titled and dated 22nd January 2019: 01 AR-100 Rev 1, 01 AR-101 Rev 1, 01 AR-102 Rev 1, 01 AR-202 Rev 1.
- 2) The materials to be used for the external surfaces of the development hereby permitted shall match those of the existing building. All new works and works of making good to the retained fabric shall be finished to match the adjacent work with regards to the methods used and to material, colour, texture and profile, unless the prior written approval of the Local Planning Authority is obtained to any variation, or except where otherwise stated on the approved drawings.
- 3) No windows or other openings shall be inserted in the side elevations of the part 1, part 2 storey rear extensions and dormer roof extension to main rear roof hereby permitted.
- 4) The roof area of the single storey rear extension hereby approved shall not be used as a balcony, roof garden or sitting out area at any time.
- 5) The rooflights to front roof slope hereby permitted must not protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof.