
Appeal Decision

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 21 May 2020

Appeal Ref: APP/U5930/W/20/3245555

35 Orford Road, Walthamstow E17 9NL

- 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 Lisa Pender and David Emery against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 193194, dated 24 September 2019, was refused by notice dated 9 January 2020.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 35 Orford Road, Walthamstow E17 9NL in accordance with the terms of the application, Ref 193194, dated 24 September 2019, 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: 1701 101; 1701 102; 1701 103; 1701 104; 1701 105; 1701 106; 1701 201; 1701 202; 1701 203; 1701 204; 1701 205; 1701 206; 1701. BP and 1701. LP.
 - 3) The roof of the extension hereby approved shall not be used as a roof terrace.

Procedural Matters

2. In response to travel restrictions currently in place due to the COVID-19 pandemic I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available, supplemented by additional photographic evidence supplied by the appellant and confirmed as being accurate by the Council. Both the appellant and the Council have been given an opportunity to provide comments on this approach and I have taken any responses into account.

Main Issues

3. The main issues are the effects of the proposed development on:
 - The character and appearance of the host property and the surrounding area; and
 - The living conditions of occupiers of the appeal property, with particular regard to outdoor amenity space and outlook.

Reasons

Character and appearance

4. The appeal property is a mid-terraced ground floor residential flat. At the rear, the additional photographic evidence submitted by the appellant and agreed by the Council, shows a single storey outrigger extending into the rear yard area. The outrigger accommodates a kitchen with corridor access to a bathroom and utility room.
5. The small L-shaped rear yard area is enclosed on three sides by elements of the surrounding buildings whilst to the rear, beyond the yard wall, lie overgrown residential plots. Access to the rear yard is shown as currently being taken from the outrigger's corridor and from the bedroom's double doors.
6. Although I have not physically visited the site, publicly accessible photographic evidence in the form of aerial images and additionally submitted photographs taken by the appellant, clearly show the extent of extensions and structures at the rear of the host building, those adjoining it, and within the wider street block that the appeal site lies within. The proposed extension would stop somewhat short of the large, full plot-width flat roofed extension at the neighbouring property on one side¹, and would be similar to the form and layout of the extended property on the other².
7. There do appear to be properties within adjacent streets that run off from Orford Road that have spacious rear gardens. However, such spacious rear gardens do not appear to solely characterise properties along the stretch of Orford Road between Beulah Road and the end of Eden Road. From the evidence, these properties are equally defined by large, full width, flat roofed rear extensions and, in this context, the general form and scale of the proposal would not appear as being out of character. Indeed, the proposed extension would be clearly differentiated from the form of the existing outrigger and would avoid the extent of sprawl evident at the neighbouring property which, despite the Council's uncertainty regarding its planning history, is nevertheless part of the context in which the proposal would lie.
8. Although together Orford, Beulah and Eden Roads form a typical suburban residential block, with generous and verdant rear gardens, those properties fronting the more commercially focused Orford Road frontage have large rear outriggers occupying much of the space at the rear of the main terraced block. The extent of the appeal property's rear garden may, the Council suggest, have previously been reduced, but as the property presently stands, the proposal would not harm or compromise the character of the appeal property. The proposal would not compromise the general layout or character of the host property or surrounding area, nor would the resulting outdoor areas around the proposed extension be uncharacteristically or unduly small.
9. For these reasons, the proposal would not be contrary to policies DM4, DM28, DM29 or DM32 of the Waltham Forest Development Management Policies Local Plan (DMP) or policies CS2 and CS15 of the Waltham Forest Local Plan Core Strategy (CS). Together, these policies seek to secure high quality housing and development that respects local context and character.

¹ No. 37

² No. 33

10. The appeal property also lies within the Orford Road Conservation Area (CA). as such I am statutorily required to assess the proposal in the context of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Although a generously proportioned extension, I have for the reasons set out above concluded that it would not be out of keeping with the character of the host property, the adjacent properties or the surrounding area. The proposal would have a neutral effect on the character or appearance of the CA, thereby preserving the character or appearance of the CA.

Living conditions

11. The proposal seeks permission for an L-shaped single storey extension that would wrap around the side and rear of the existing outrigger. At present this space forms part of an L-shaped yard area, a narrow spur between the outrigger and the adjacent outrigger opening out beyond the rear of No. 35 to a courtyard garden.
12. In terms of overall rearward projection beyond the rear wall of the existing outrigger, the scale of the proposed extension would be modest, allowing a small courtyard garden to be retained. In addition, a smaller, 'internal' courtyard would be created to supplement the courtyard garden area at the rear, whilst also acting as a lightwell to the living room, kitchen and additional bedroom.
13. The resulting outdoor amenity space would fall somewhere between the external space requirements outlined in DMP policy DM7³ and that set out in the guidance within the 'Residential Extensions and Alterations' Supplementary Planning Document (SPD)⁴ in terms of area. The latter refers specifically to the effects of extensions to homes on garden space but predates the former which, in turn refers to all new residential development, conversions and changes of use rather than to extensions.
14. The proposal would result in garden space falling short of the guidance set out in the SPD, where 15m² of usable private garden space per habitable room will generally be sought. However, it does not necessarily follow that a proposal would also fall foul of DMP policy DM4 in such circumstances.
15. DMP policy DM4(A)(iii) seeks to ensure that proposals protect occupiers of the existing building from suffering any excessive loss of residential amenity. The proposal would reduce the amount of garden space available to the extended property. However, two separate outdoor amenity spaces would be provided. Although these would be compact, particularly the 'internal' courtyard between the opposing faces of the existing building and the proposed extension, they would be private and secluded.
16. Moreover, the existing rear and flank elevations of the main building and outrigger at No. 35 are finished in a white render, providing a bright surface from which daylight and sunlight are able to reflect. The reduced outdoor amenity space, whilst falling short of the guideline figures that the SPD generally requires, would not amount to an excessive loss of residential amenity for occupiers of the property.

³ Table 8.3

⁴ Paragraph 5.1.5

17. The Council accepts that the proposal would meet all required internal space standards set out within the DMP⁵. The main living area would be a large open dual aspect space, whilst the larger of the bedrooms would have a large glazed folding door opening out onto the rear courtyard garden. Although the smaller bedroom and kitchen windows would open out onto the 'internal' courtyard, the light and bright surfaces of the facing elevations would act as a lightwell to these rooms and would not, from my judgement of the submitted photographic evidence, cause excessive harm to residential amenity in terms of light.
18. For these reasons, I am not persuaded that the proposed extension would give rise to excessive harm to the residential amenities of residents of No. 35. The reduction in garden space within the rear yard would result in garden space falling short of the guidance set out in the SPD, but this would not, for the reasons I have set out, cause harm to the extent that DMP policy DM4 seeks to avoid. There would be no conflict with DMP policies DM4 or DM29 or CS policies CS2, CS13 or CS15 which seek to ensure acceptable living conditions for existing and future residents.
19. The appellant makes reference to DMP Policy DM7 and that the proposal complies with its garden space requirements. However, it is clear that DMP policy DM7 relates to new residential development, whilst DMP policy DM4 is equally clear in its application to residential extensions and alterations. The Council have not contended that the proposal is contrary to DMP policy DM7 but, for the reasons I have set out, I give it little weight and it has not been determinative in my consideration of this matter.

Conditions

20. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance. I agree that time limit and plans conditions are necessary in order to provide certainty and in the interests of good planning. Whilst I have noted the Council's suggested materials condition, I am satisfied that the submitted plans, and therefore the approved plans condition, adequately specifies and would appropriately control the materials of the external faces of the proposed extension relative to those of the existing building.
21. A further condition has also been suggested to prevent use of the extension's flat roof as a roof terrace. I agree that in a context of closely located neighbouring properties, the use of flat roof as a terrace would prejudice living conditions in terms of privacy. I too consider it necessary to apply such a condition.

Conclusion

22. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR

⁵ As confirmed at section 7(C) 2nd paragraph of the Council's Officer Report