



Appeal Decision

Site visit made on 15 September 2020

by M Seaton DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2020

Appeal Ref: APP/U5930/D/20/3252214 58 Oakdale Road, London, E11 4DL

- 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 Ben Steer against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 200400, dated 6 February 2020, was refused by notice dated 31 March 2020.
 - The development proposed is the construction of a single storey rear and side infill extension at ground floor level, and construction of a first-floor rear extension.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of a single storey rear and side infill extension at ground floor level, and construction of a first-floor rear extension at 58 Oakdale Road, London, E11 4DL, in accordance with the terms of the application Ref 200400 dated 6 February 2020, and subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be in accordance with the following approved plans: Drawing Nos. A1169/01, A1169/02, A1169/03, A1169/04, and A1169/10 Rev. B, dated January 2019; Drawing Nos. A1169/05, A1169/06, A1169/07, A1169/08, A1169/09 Rev. A, A1169/12, A1169/13 Rev. C, A1169/14 Rev. C, A1169/15 Rev. C, and A1169/16 Rev. C, dated February 2019; and A/1169/11 dated March 2019.
 3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is whether the proposed development would safeguard the living conditions of the neighbouring occupiers of No. 60 Oakdale Road, having regard to light and outlook.

Reasons

3. The appeal property is a two-storey terraced dwelling located on the north west side of Oakdale Road, which is a residential street comprised of long residential terraces.

4. The Council has indicated that there are particular concerns related to the impact on the living conditions of the neighbouring occupiers of No. 60 Oakdale Road from both the ground and first floor extensions.
5. I note that the proposed ground floor extension would infill the existing side return to an eaves height of 2.5 metres on the boundary adjoining the rear ground floor 'outrigger' of the appeal property, resulting in a squaring-off of development to the rear of the dwelling. The Council has commented that it would generally accept developments within the *tunnel return* which are within the range of 2.2 – 2.4 metres in height, assessed on a case-by-case basis, but that the proposal would be 0.1 – 0.3 metres higher than the maximum height that would be acceptable and there would result a significant loss of light.
6. Whilst I have had regard to the Council's contention, it is the potential impact of a single-storey extension or boundary treatment completed as permitted development which represents a more definitive fall-back position in this instance. I have considered the realistic possibility of an extension of 3 metres depth with height to eaves of 3 metres on the boundary completed as permitted development, as a direct comparator to the impact of the proposed scheme. On this basis, whilst the proposed extension would be 0.5 metres higher than a boundary treatment which could be erected as permitted development, the critical first 3 metres from the rear elevation would be 0.5 metres lower than a potential extension constructed under permitted development.
7. I appreciate that the light and outlook available to the neighbouring windows would undoubtedly be adversely affected by the proposed development. However, the fallback position presented by the appellant is an important material consideration which cannot be ignored. Despite the depth of the extension exceeding the 3 metre parameter for permitted development by 1.7 metres, I am satisfied that the increased depth and overall impact of the height of the ground floor element of the proposal close to the neighbouring habitable room windows presents a preferable relationship to that which could be constructed without the need for planning permission, where any impact on the availability of light in particular would be worsened.
8. I have also carefully considered the Council's conclusions and the submissions of the neighbouring occupiers with regards the use of the guideline *45-degree assessment* relating to both the ground floor and first-floor elements of the proposal. I accept that the guideline horizontal *45-degree* line would be breached with regards the ground floor element of the proposal, although this would also occur if an extension was completed in accordance with the permitted development rules.
9. However, whilst I also accept that the first floor extension would breach the guideline vertical *45 degree* line, I am not persuaded that given the broadly north-facing orientation of the rear of the properties and the impact of the existing main two-storey terrace, that the proposal would result in a significant or unacceptable worsening of the existing available light from this element. In the absence of any detailed technical evidence in opposition to the proposed development quantifying the level of impact from the proposal, I have limited my assessment to my observations on site from which I conclude that the proposed first floor extension would not result in an unacceptable adverse effect on neighbouring living conditions in respect of light.

10. For these reasons, the proposed development would safeguard the living conditions of the neighbouring occupiers of No. 60 Oakdale Road, having regard to light and outlook. I do not find there to be conflict with Policies CS2, 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 (Local Plan DMP). These policies seek to ensure that development is well designed and of a high quality, and maintains satisfactory residential amenity for surrounding occupiers including daylight/sunlight, outlook and privacy, without any excessive loss of amenity.
11. Whilst I have noted that Policy DM23 (Health and Well Being) of the Local Plan DMP has also been referred to, it is not clear in what context the Council has drawn relevance against the proposed development, and this policy has not therefore been central to my decision-making.
12. I have also noted the references which have been made to the Council's Supplementary Planning Document (SPD): 'Residential Extensions and Alterations' 2010. However, it is evident that the guidance regarding the inappropriateness of infilling the 'L-shape' to the rear of Victorian terraced housing and potential impacts of doing so, does not take into account the possibility of extensions being undertaken as permitted development. Whilst the SPD is a material consideration, I attribute only very limited weight to any conflict in this instance, insufficient to weigh against my conclusions on the Development Plan with any significance.

Other Matters

13. I have had regard to the interested party's concerns over the size of the proposed extensions in the context of existing development on the appeal site. However, whilst I acknowledge the cumulative scale of the extensions, I am satisfied that they would not be uncharacteristic of existing development observed in the vicinity, or indeed that the proposed extensions would overwhelm or fail to retain subordination in the context of the host dwelling.

Conditions

14. In addition to conditions regarding timeliness and adherence to the submitted plans, I am satisfied that a condition securing the use of matching materials would be reasonable in the interests of the character and appearance of the dwelling and area.

Conclusion

15. For the above reasons, and subject to the conditions as listed, the appeal is allowed.

Martin Seaton

INSPECTOR