



Appeal Decision

Site Visit made on 12 October 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2021

Appeal Ref: APP/U5930/D/20/3264172

59 Leadale Avenue, London E4 8AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Miss Gemma Ryan against the decision of Waltham Forest London Borough Council.
 - The application Ref: 202728, dated 8 September 2020, was refused by notice dated 15 October 2020.
 - The development proposed is a single-storey ground floor rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination has been made on the same basis.
3. In its decision notice, the Council has referred to policies in the development plan and a Supplementary Planning Document. However, a prior approval appeal should not be determined, expressly or otherwise, on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004, or as though the development plan must be applied. This is because the principle of development is established through the grant of permission by the GPDO. Nevertheless, insofar as the development plan assists in assessing the impacts of the extension, I have had regard to them.

Main Issue

4. The main issue in this appeal is the effect of the development upon the living conditions of the occupiers of the neighbouring property at 57 Leadale Avenue, with particular regard to light and outlook.

Reasons

5. The appeal site consists of a semi-detached dwelling. The adjoining dwelling at No. 57 has been previously extended through the provision of a conservatory. The shared boundary between the two properties is marked by a wooden fence.

6. The proposed extension would project into the rear garden and have a greater height and depth than the conservatory at No. 57. The conservatory features windows on the side and rear elevations. The proposed extension would be a dominant and constant presence in near distance views from these windows. Therefore, even though the conservatory encompasses a solid roof, the proposed development would result in a harmful reduction in the level of outlook for the occupiers of No. 57.
7. In addition, the outlook from the living room at No 57 is provided through the conservatory. Therefore, the reduction in the level of outlook for the conservatory would also impinge upon the outlook of the neighbouring dwelling's living room.
8. Furthermore, the height and depth of the rear extension would create an enclosing effect when viewed from the garden at No 57. As this is the only space where private outdoors recreation might take place, the lack of appropriate outlook would also contribute to an erosion of the living conditions of the occupiers of the neighbouring property.
9. The garden of No. 57 features boundary planting that would soften the effect of the development. However, there is no mechanism before me that would secure the retention of this planting given that it falls outside of the appeal site. Therefore, there is a possibility that it could be removed, or reduced in size, in the future and would not mitigate the proposed development.
10. The proposed development would be close to the boundary and both taller and deeper than the neighbouring conservatory. As a result, the development would create a loss of sunlight to this room. The orientation of the appeal site is such that the loss of direct sunlight would not occur for all of the day. However, the loss of sunlight and overshadowing, in conjunction with the loss of outlook, that would occur would be extensive and thus harmful to the living conditions of No 57.
11. Whilst No. 57 has been extended through the provision of the conservatory, however, it forms part of the neighbouring dwelling. Therefore, it is appropriate to consider the effects that the proposed development would have upon this space.
12. My attention has been drawn to an extension at 61 Leadale Avenue. Whilst of a similar size to the appeal proposal, the adjoining dwelling at 63 Leadale Avenue has also been extended. This extension also features less glazing than the extension at No. 57. In addition, the shadows from the extension at No. 61 would not be cast over the property at No. 63. The extension at No. 61 is also a greater distance away from the dwelling at No. 59 when compared with the relationship between No. 59 and No. 57.
13. Therefore, the differences in the two sites are such that the presence of the extension at No. 61 does not alter my previous concerns.
14. The development would therefore conflict with the requirements of Policy DM32 of the London Borough of Waltham Forest Development Management Policies Local Plan (2013) and the Residential Extensions and Alterations Supplementary Planning Document (2010). Amongst other matters, these seek to ensure that new developments ensure that daylight, sunlight and outlook is maintained for existing occupiers and avoid an overbearing effect.

15. I therefore conclude that the proposed development would have an adverse effect on the living conditions of the occupiers of No. 57 owing to a loss of sunlight and outlook.

Conclusion

16. For the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR