
Appeal Decision

Site visit made on 16 February 2022

by D J Barnes MBA BSc(Hons) DipTP MRTPI

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

Decision date: 11TH April 2022

Appeal Ref: APP/U5930/D/21/3288283
210 Hainault Road, Leytonstone E11 1EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Asha Kaur against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 211550, dated 18 May 2021 was refused by notice dated 16 September 2021.
 - The application sought planning permission for the construction of a single storey rear extension without complying with a condition attached to planning permission Ref 183463, dated 10 January 2019.
 - The condition in dispute is No. 3 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans and thereafter maintained as such for the lifetime of the development: Location Plan received on 21/06/2018, Existing Block Plan A101 Rev (R2), Existing & Proposed Block Plans A102 Rev (R2), Existing and Proposed Floor Plans A103 Rev (R2) received on 10/10/2018 and Existing and Proposed Elevations A204 Rev (R1) and Existing and Proposed Elevations A205 Rev (R1).
 - The reason given for the condition: 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 a single storey rear extension without complying with a condition attached to planning permission at 210 Hainault Road, Leytonstone E11 1EP in accordance with the application Ref 211550 made on the 18 May 2021 without complying with condition No. 3 set out in planning permission No. 183463 granted on 10 January 2019 by the Council of the London Borough of Waltham Forest but otherwise subject to the following condition:
 - 1) The development hereby permitted shall be carried out and then retained as built in accordance with the following approved plans: 846-000-L-000; 846-200-L-001 and 846-200-L-X01.

Main Issues

2. It is considered that if condition 3 is varied the main issues are the effects of the development on (a) the character and appearance of the host property and the terrace and (b) the living conditions of the occupiers of 208 Hainault Road.

Reasons

Character and Appearance

3. Planning permission (Ref 183463) was granted by the Council for the erection of a single storey rear extension and condition 3 required the scheme to be constructed in accordance with the approved drawings. The reason for imposing the condition was for the avoidance of doubt and in the interest of proper planning.
4. The extension which has been erected has not been constructed in accordance with the approved plans, including because the height of the addition is taller than what was indicated on the plans. The reason for the height difference is stated to be the inaccuracy of the previous plans to identify the correct ground level at the rear of the property relative to the internal floor level. It would have been perfectly reasonable for the Council to have assumed the accuracy of the drawings when the original planning application was assessed, including the ground level.
5. Accordingly, the floor level of the erected extension is some 460mm above what was the ground level. This difference has resulted in a higher extension than approved. Although the extension overall is higher, the eaves level (i.e. the top of the parapet wall) on the boundary with 208 Hainault Road is only 270mm more than the approved scheme.
6. The Council's *Residential Extensions and Alterations Supplementary Planning Document* (RESPD) includes design guidance that extensions should generally appear subordinate to the property and they should respect the streetscene and local character. Other than the height and a larger opening within the rear elevation, the depth and general design of the development which has been erected reflects the approved plans. This includes the sloping glazed roof adjacent to the shared boundary with No. 208 which was referenced by the Planning Officer.
7. The appeal property is a 2-storey terraced dwelling situated within a residential area which includes a variety of dwelling type and designs. To the rear of some of the dwellings within the terrace additions have been added of various sizes and designs, including a single storey extension to the rear of No. 214. When assessed against the approved scheme and the other additions to the near-by dwellings, what has been erected by the appellant is not materially different in height, size, design and form so that it causes harm to the character and appearance of either the host property or the terrace within which it forms part. Although higher, the extension is not of a scale whereby it results in it being a materially greater physical and visual addition to the host property than the approved scheme to justify this appeal failing.
8. Accordingly, on this issue it is concluded that the development does not cause unacceptable harm to the character and appearance of the host property and the terrace and, as such, it does not conflict with Policy CS15 of the Waltham Forest Local Plan Core Strategy (CS), Policy DM29 of the London Borough of Waltham Forest Development Management Policies Local Plan (DMP) and the guidance in the RESPD. Amongst other matters, these policies seek to ensure the highest quality architecture and urban design and give strong recognition to local distinctiveness. CS Policy CS2 is not of direct relevance to the design of

residential extensions because it is primarily concerned with housing quality and choice.

Living Conditions

9. Although the current occupiers of No. 208 have been supportive of the development, I am mindful that others may occupy this neighbouring property in the future. Further, it is noted that planning permission has been granted for an alteration to No. 208 which include alterations to the rear of this dwelling (Ref 210536) but construction work has yet to commence. Therefore, the appeal scheme has been assessed based upon the current circumstances and considered against DMP Policies DM4, DM29 and DM32 which seek to protect the occupants of nearby properties from loss of amenity and to ensure that daylight and outlook is maintained.
10. As part of the evidence, the appellant has provided a *Daylight and Sunlight Assessment* which includes an assessment of the ground floor window within the rear elevation of No. 208. This *Assessment* demonstrates that the degree of change to the level of sun and day light reaching this window between the approved scheme and the as built extension is not significant and appropriate vertical sky component, annual probable sunlight hours and winter probable sunlight hours are maintained. There are no reasons to disagree with the *Assessment* which has been undertaken.
11. Although the eaves level of the side elevation of the extension is higher than the approved scheme, the difference in outlook from this window is not significant. The outlook remains of a side wall of an extension sited adjacent to the shared boundary. The angled roof is set back from the parapet wall, it slopes away from the shared boundary and is glazed. These design elements mitigate the visual impact of the extension in the outlook from the window.
12. No issues associated with loss of privacy for the occupiers of No. 208 have been identified. There are no openings in the side elevation of the extension and the high level glazing of the sloping roof does not allow for overlooking of this neighbouring property.
13. Accordingly, it is concluded that the development does not cause unacceptable harm to the living conditions of the occupiers of 208 Hainault Road and, as such, it does not conflict with DMP Policies DM4, DM29 and DM32 and the guidance contained in the RESPD. DMP Policy DM23 is not considered to be of direct relevance to the erection of an extension because it relates to wider health impacts and residential schemes.

Conclusion

14. For the reasons given, it is concluded that this appeal should be allowed and condition 3 varied to refer to the amended approved drawings and to ensure that the extension is retained as built. The other conditions referred to in the original decision notice are unnecessary because the time period has now expired and matching external materials have already been used.

D J Barnes

INSPECTOR