



Appeal Decision

Site visit made on 1 April 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2022

Appeal Ref: APP/U5930/W/21/3283399

85A Howard Road, Walthamstow E17 4SG

- 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 Ms Louise Brotherton against the decision of Waltham Forest London Borough Council.
 - The application Ref 211736, dated 2 June 2021, was refused by notice dated 25 August 2021.
 - The development proposed is construction of a full width ground floor rear extension to ground floor flat and new outbuilding.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for a full award of costs has been made by Louise Brotherton against Waltham Forest London Borough Council. This is the subject of a separate decision.

Preliminary Matter

3. The application was originally made in the names of Brotherton & Davey, but the appeal form only lists Ms Louise Brotherton as the appellant, and I have proceeded on that basis.

Main Issues

4. The main issues are i) the effect of the proposed rear extension on the living conditions of neighbouring occupants, with respect to outlook and light, and ii) the design of the proposed rear extension and its effect on the character and appearance of the area.

Reasons

5. The appeal relates to a ground floor flat within a mid-terraced property. No 85 and No 83 next door are exceptions to the general pattern of development in that they do not have deep, two storey outriggers which characterise the wider terrace. Instead, they have shallow projections to first floor level, to which modest single storey extensions have been added, and bay windows at rear ground floor level. The proposal seeks a contemporary, flat-roofed extension that would replace the bay window and the existing single storey extension. A detached outbuilding is also proposed to the rear of the garden.

Living Conditions

6. The main point of disagreement between the main parties is the height of the proposed extension on the boundary with No 87/89¹ and its resulting impact on the outlook and light received by the neighbouring ground floor flat. The height of the existing boundary fence is given as 2.4 metres, a figure not disputed by the Council. The extension would measure 2.745 metres to the parapet of the flat roof. The appellant points out that the existing ground level would be lowered by 245mm, meaning that the extension would project only 100mm above the height of the boundary fence.
7. The plans before me do not explicitly set out other measurements cited by the parties, in particular the Council, which provides different measurements at different points in its evidence. As such, I have treated the measurements given with caution.
8. The Council points out that submitted plans show the ground level of No 87/89 is lower by some 300mm, meaning that the extension would stand approximately 2.8 metres high on the neighbouring side of the boundary. Initially, the Council put this difference at 700mm, but having regard to the plans, 300mm appears to be the more accurate estimate. The Council goes on to refer to 'best practice' whereby it seeks to limit the eaves height of extensions to 2.4 metres; however, it concedes that this requirement is not set out in an adopted development plan policy or supplementary planning document (SPD). As such, this limits the weight I place upon this measurement as a guideline for assessing the proposal.
9. I saw the boundary fence to be well-established, with a thick covering of ivy to parts further down the garden. It exceeds the head height of the ground floor windows of No 85 and forms a narrow, enclosed space to the side of the outrigger. The sense of enclosure is added to by the external stair which descends from the first floor level at the rear of the outrigger.
10. Given this existing context, the additional height of the extension, 100mm above the fence line, would add minimally to the overall height on the boundary and would have very limited effect on the outlook for occupants of No 85, who would continue to mainly see a solid fence and similar extent of the sky when viewing out from their windows. The flat roof form of the extension would also avoid the additional massing of a pitched roof. Therefore, I am satisfied that this modest increase in height relative to the existing situation would not lead to a material loss of sunlight or daylight to the ground floor windows of No 85.
11. The Council points out that the fence is not a permanent structure and would not be considered in the same way as one. However, the fence has clearly been in place for a significant period of time and has become an established feature of the site. Whilst it is more lightweight than a wall, it is nevertheless solid in form and fully screens views between the two properties. I have no evidence to indicate an intention to remove or lower the fence, and therefore I see no reason to discount it in considering the existing site context.
12. In reaching a view, I note comments from interested parties pointing to limitations on the depth of extensions. However, these limits relate to works

¹ The ground floor flat is indicated to be No 87, the first floor flat No 89

under permitted development, rather than proposals made through a planning application, which are assessed on their merits against the development plan. As such, the quoted limitations are not decisive to my considerations.

13. The Council also considered the effect of the proposal on No 83 to the other side. This property is separated by a lower fence, but the depth of the extension would be considerably less to this side at just over 3 metres. This is broadly in line with the guidance of the Residential Extensions and Alterations SPD (February 2010) (the REA). The nearest ground floor window is also the large bay to the far side of the rear elevation. Given this separation, the extension would not impinge upon this window or cause a demonstrable loss of light or outlook for occupants of No 83.
14. For the reasons set out, I find that the proposed extension would not lead to a material loss of outlook or light for neighbouring occupants, and so would not harm their living conditions. No conflict therefore arises with Policies CS2 and CS13 of the Waltham Forest Local Plan Core Strategy (2012) (the CS) or Policies DM4 and DM32 of the Waltham Forest Local Plan Development Management Policies (2013) (the DMP), nor the guidance of the REA SPD, in terms of their requirements that developments ensure satisfactory amenity is provided for future and surrounding occupiers in terms of daylight/sunlight, outlook and privacy.

Character and Appearance

15. Policy DM4 of the DMP requires residential extensions to relate to the original host building, respect the street scene and character of the area, and where appropriate, retain and restore existing traditional features and materials. Policies CS2, CS15 and Policy DM29 require development to be a high quality design that is based on a sound understanding of, and responds positively to, the local context and reinforces local character and distinctiveness.
16. The extension would be contemporary in design, with a flat roof, large, offset fenestration and painted timber panelling to the exterior walls. It would occupy a recessed position between the significantly deeper rear outriggers which predominate along the street. I agree with the Council that the extension would not be excessive in scale compared to the surrounding built form or the site itself, and it would be physically subservient to the parent dwelling.
17. The Council's concern is with a lack of detail at the application stage as to the external materials of the extension, namely the colour and finish of the timber cladding. The submitted plans specify the proposed materials and the appellant has provided illustrative examples of the black timber cladding at the appeal stage. The Council has reiterated its comments from its delegated report in its statement of case, but no response is offered to the further information provided by the appellant.
18. Although subject to past extension, the rear elevation is composed of stock brickwork which predominates along the wider terrace and on Aubrey Road to the rear. As a result, the existing building forms a complementary part of the wider street scene and contributes positively to the character and appearance of the area.
19. The use of black timber cladding would be unique within the street and would stand in sharp contrast to the existing architecture of the parent dwelling and

wider terrace, both in terms of material and colour. The REA SPD indicates that, depending on whether the extension would be visible from the street and the extent to which it would affect the surrounding character, high quality complementary materials can be used on extensions as an alternative to matching materials.

20. The Council states that the extension would not be prominent from Aubrey Road. However, I viewed from Aubrey Road and saw that despite the presence of fencing and vegetation, the extension would be visible due to it standing at a higher ground level than the street. It would also be readily seen from the upper floors of dwellings on Aubrey Road and from the neighbouring dwellings to either side of the site. From these viewpoints, the contrast in materials and architecture would be obvious and jarring. The dark timber would stand out prominently against the lighter brickwork of the parent building and neighbouring buildings, drawing undue attention to itself as an anomalous addition to a terrace which otherwise maintains a strong degree of consistency in terms of external materials and design. This would conflict with the guidance of the REA SPD in terms of the circumstances where contrasting materials would be appropriate.
21. Although the Council has not taken issue with the overall scale and form of the extension, the design would include the cladding in timber of a section of the existing ground floor rear extension that would stand above the main flat roof of the extension. This would appear as an odd offshoot of the extension and would create an awkward intersection with the parent building. Moreover, the raised sides of the green roof are proposed in aluminium sheeting that would stand above the main eaves of the extension and would be a further conflicting material. Taken as a whole, the proposed extension would fail to reflect the surrounding context in terms of materials and character.
22. Whilst the Council does not raise concern with the design of the proposed outbuilding, given the more varied finishes to others within the street, it would also be clad in the same dark timber and, seen together with the proposed extension, there would be a cumulative impact which would exacerbate the discordant appearance of the proposed materials. Given my findings, I am not satisfied that the harm identified could be addressed though the imposition of a planning condition to secure details of materials, as the choice of other materials may have unanticipated effects on the character and appearance of the area.
23. I have noted the appellant's examples of similar extensions granted by the Council; however, these are located elsewhere in the Borough and will have different site contexts to the appeal before me. I am also not furnished with full details of the considerations made by the Council in granting planning permission for these other proposals. As such, I do not regard these examples as being directly comparable to the appeal scheme before me, which I have considered on its own planning merits.
24. For these reasons, I conclude that the proposed development would harm the character and appearance of the area, in conflict with the aforementioned aims of Policies CS2 and CS15 of the CS, Policies DM4 and DM29 of the DMP, and the guidance of the REA SPD.

Other Matters

25. The Council's delegated report refers to a potential adverse effect of the proposed outbuilding on the garden belonging to the upper floor flat of No 85 due to overshadowing. However, this is not specified as a reason for refusal. The Council's explanation as to why it did not include this as a reason for refusal is unclear, particularly as it has reiterated the same concerns in its statement of case. However, whilst I note the Council's concerns, given my findings above on the main issue it is not necessary to consider this issue in further detail, as it would not alter the outcome of the appeal.
26. I have had regard to other points raised by interested parties beyond those already addressed. Ultimately, taking account of the evidence before me, I have not identified other matters of such significance as to result in further material benefits or harms to be factored into the overall planning balance.
27. The proposal would provide extended living space for the appellants, including home working space. This would be a largely private benefit, however, with any public benefit from having a larger residential unit within the wider housing stock attracting only limited weight given the small scale of the proposal.

Conclusion

28. The proposal would result in conflict with the development plan, taken as a whole. Material considerations in this case do not indicate that planning permission should nevertheless be forthcoming in spite of this conflict. Therefore, I conclude that the appeal should be dismissed.

K. Savage

INSPECTOR