

Appeal Decision

Site visit made on 19 April 2022

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2022

Appeal Ref: APP/U5930/W/21/3284657

144, First floor and Second floor Flat 3, Wallwood Road, Leytonstone E11 1AN

- 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 C Hunter and Ms N Damen-Lane against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 211281, dated 26 April 2021, was refused by notice dated 6 August 2021.
 - The development proposed is a new balcony over existing flat roof on second floor serving flat 3.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellants have suggested an alternative design to the design of the proposed balcony, setting it back from the edge of the existing flat roof by some 300mm. These were not considered in full by the Council and the decision was issued on the basis of the original scheme. The amended drawings are intended to address a reason for refusal and have not been the subject of consultation.
3. In my view, they materially amend the proposal. Therefore, were I to accept them then that may prejudice the interests of interested parties. Consequently, I have determined the appeal on the basis of the scheme considered by the Council. Should the appellants choose to amend the scheme for future applications it is of course open for them to do this.

Main Issues

4. The main issues are
 - the effect of the proposal on the character and appearance of the existing property and surrounding area; and
 - the effect of the proposal on the living conditions of the occupants of Nos 146 and 142 Wallwood Road, having particular regard to privacy.

Reasons

Character and Appearance

5. No 144 Wallwood Road is a mid-terraced property converted into flats. Flat 3 is set over the first and second floor of the property. The rear of the terrace has some variation in terms of appearance, with differing fenestration patterns to each property, a small pitch roofed dormer to No 144, a large box dormer at No 142 and rear projections of various scale and heights.
6. Whilst there are no other balconies visible, in this mixed context, the timber balustrade and privacy screen to the proposed balcony would not appear incongruous, and, given the three-four storey scale of the property, would not appear visually dominant. The original form of the building would remain legible.
7. This mixed context and scale of property would not necessarily be replicated somewhere else. Therefore, this scheme does not in my view set a harmful precedent for development elsewhere.
8. Given the above, the development would not harm the character and appearance of the appeal property or the surrounding area. Accordingly, the development complies with the requirements of Policy CS15 of the Waltham Forest Local Plan - Core Strategy (2012) (CS), and Policies DM4 and DM29 of the London Borough of Waltham Forest Development Management Policies Local Plan (2013) (DM) which require developments to relate to the original property and respond positively to the local context and character. There is also no conflict with the design advice set out in the 'Residential Extensions and Alterations' Supplementary Planning Document (SPD), which requires a high standard of design.
9. The Council also reference CS Policy CS13 and DM Policy DM23, both of which relate to promoting health and well-being. Therefore, these policies are not relevant in this instance.

Living Conditions

10. The existing rear facing fenestration of the appeal property, which includes first floor French doors and a Juliet balcony, and the rear facing fenestration of the neighbouring properties means that there is already some intervisibility and mutual overlooking from windows to garden areas.
11. The existing rear French doors, serving the kitchen, provide opportunity for some overlooking from the kitchen area of the appeal property, though this is restricted towards No 146 by a first floor rear projection. The balcony proposed, however, is intended to allow for sitting or standing out.
12. The proposed balustrade would limit views to neighbouring gardens when at a seated level, but not when standing. Whilst planters would prevent standing directly next to the balustrade and looking down to the area of garden directly next to the rear of the properties, this would not prevent opportunity for direct overlooking towards the rear.
13. There are some trees and shrubs in the neighbouring garden of No 146 which provides some screening, however there is no guarantee that planting would remain in situ. Given the set forward of the proposed balcony compared to the

existing French doors, the balcony would offer clear, albeit oblique, views of much of the garden of No 146. Therefore, compared to the existing situation and the screening offered by the existing first floor projection, this would allow for greater overlooking of the rear garden of No 146. The high vantage point offered by the balcony in addition to its intended use would result in a real sense of being overlooked from above, which would substantially reduce privacy and detract from the enjoyment of neighbouring outdoor space.

14. Therefore, the proposal would result in a level of overlooking exceeding the existing and would result in a loss of privacy for users of the garden of No 146, to the detriment of the living conditions of the occupiers.
15. There are also some trees and shrubs in the neighbouring garden of No 142. However, given the elevated position of the proposed balcony the plants would provide limited screening. In any event, again, there is no guarantee that planting would remain in situ.
16. The balcony would therefore also offer clear, albeit oblique, views of much of the garden of No 142. Again, compared to that currently experienced from the kitchen, the sense of being overlooked from the use of the balcony above would substantially reduce privacy and detract from the enjoyment of outdoor space. This would result in a loss of privacy for users of the garden of No 142, to the detriment of the living conditions of the occupiers.
17. Therefore, the development would harm the living conditions of occupants of 146 and 142 Wallwood Road, in respect to privacy. Accordingly, it would conflict with CS Policies CS13 and CS15, and DM Policies DM4, DM29 and DM32, which, amongst other matters, seek to ensure development is high quality and well designed, and a healthy environment for residents is provided by managing the impact of developments. It would also conflict with the advice set out in the SPD, which sets out that the acceptability of balconies will depend on the impact of any overlooking into neighbouring properties.

Other Matters

18. I note that the appellants address the issues of the impact upon the outlook of No 142 and overlooking of the basement flat of No 144. Neither of these issues were reasons for refusal or in dispute. Even if no harm is found in this respect, these would be neutral matters not in favour of the proposal.
19. It is acknowledged that the development would provide outdoor amenity space to a unit which currently lacks any, however, it would do so in a manner that would be harmful to the living conditions of neighbouring occupiers, in conflict with the development plan. This matter does not provide justification for harmful development.

Conclusion

20. There are no material considerations that indicate the application should be determined other than in accordance with the development plan.
21. Although I have found that the proposed balcony would not harm the character and appearance of the property and surrounding area, the harm identified to the living conditions of the occupants of 146 and 142 Wallwood Road, having particular regard to privacy, means that the proposal must fail. The appeal is therefore dismissed.

B Phillips

INSPECTOR