



Appeal Decision

Site visit made on 14 June 2022

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2022

Appeal Ref: APP/U5930/D/22/3290386

120 Church Road, London, E10 5HG

- 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 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Mrs N. Afzal against the decision of Waltham Forest London Borough Council.
 - The application Ref: 212937, dated 10 September 2021, was refused by notice dated 21 October 2021.
 - The development proposed is described as: Single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), planning permission is granted for the enlargement of a dwelling house subject to limitations and conditions.
3. Where an application is made for a determination as to whether prior approval is required for development which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g) to Part 1, paragraph A.4(3) provides that the local planning authority may refuse the application where it considers that the proposed development does not comply with the conditions, limitations or restrictions that are applicable to such permitted development.
4. Paragraph A.4(7) to Part 1 requires the local planning authority to assess the impact of the proposed development on the amenity of all adjoining premises, taking into account any representations received.
5. It is not in dispute that the proposed extension falls within the parameters set out in Paragraph A.1 (b), (c), (d), (g), (i), and (ja) of Part 1.
6. Representations were received in connection with the proposal from the occupiers of number 122 Church Road raising objections to the proposals on the grounds that the proposed extension would result in a loss of outlook from, and overshadowing to, their property. The letter also makes representations in respect of the character and appearance of the area and the condition of an existing extension at the appeal building. However, these are not matters that fall within the scope of consideration in respect of an application for prior approval.

Main Issue

7. The main issue in this appeal is the effect of the proposed development on the living conditions of the occupiers of the neighbouring properties at 118 and 122 Church Road.

Reasons

8. The appeal building is a modern, two storey, end of terrace house of traditional construction. The evidence indicates that in 2010 planning permission was granted for a flat roofed, single storey, rear extension projecting approximately 3 metres from original rear wall of the house.
9. The appeal proposal seeks to add to this previous enlargement to create an extension with a 6 metre overall projection and a maximum height of 3 metres, matching the height of the flat roof of the previous addition.
10. Both parties have referred to a number of Policies in the Waltham Forest Local Plan - Core Strategy 2012 and the Waltham Forest Local Plan - Development Management Policies 2013. However, as this application is for Prior Approval, Section 38(6) of the Planning and Compulsory Purchase Act 2004 is not applicable, and the policies cited do not set out any criteria or standards that assist in assessing the impact of the extension on the amenity of the adjacent properties.
11. The current addition to the rear of the appeal building is offset from the common boundary with number 122 Church Road by a small amount. Both the Appellant's statement and the Council officer's report refer to an extension in the form of canopy to the rear of this property. This is visible in the extract from the satellite image in the Appellant's statement, shown on the Ordnance Survey map, and is also visible in the photographs attached to the representations received from the occupiers of this property. However, when I visited the site, I observed that this structure has been removed and is no longer present.
12. The property at number 122 has a window on the rear elevation that is located less than 1 metre from the common boundary. This boundary is demarcated by an open mesh fence. The photographs included on the letter of representation show that the existing enlargement at the appeal building is visible from this window. It is stated in the representation that this is a living room window. I am mindful that these photographs have been taken from a position close to the window opening, nonetheless, one has been taken from a central position in the window, which is more representative of the outlook from it. From this it is evident that the existing extension has an effect on outlook from this window. The proposed extension would, in effect, double the extent of the existing projection and result in a 6 metre long blank wall very close to the common boundary and the window of a principal habitable room.
13. This would result in an overbearing effect that would be harmful to the outlook from within this room, notwithstanding that the property has a long rear garden.
14. Number 122 is located to the north west of the appeal building. At the time of my site visit, in the early part of the afternoon, the existing extension did not cast as shadow over the window closest to the boundary. Nevertheless, due to the relative positions of the two buildings, it was clear that it would do so

during part of the morning. This would be exacerbated by increasing the extent of the projection, particularly during the winter months when the sun is lower in the sky.

15. I find that the combination of these two factors would be harmful to the living conditions of the occupiers of number 122 Church Road.
16. With regard to number 118 Church Road, I saw when I visited the site that this property has not been extended to the rear. This property is located to the south east of the appeal building and as a result the proposed extension would not have an effect on sunlight or daylight received to the rear of this property. On the ground floor rear elevation of this house there are a number of windows. I do not have any details in respect of the internal layout of this property. Number 118 is located at an angle to number 120 and, as a result, the proposed extension would impinge on the outlook from the windows at the rear of this house. I also observed that the rear garden area of number 118 is noticeably shorter than that of the appeal building.
17. However, the proposed extension would be inset from the common boundary between these properties by approximately 1.5 to 2 metres and I also saw that there is a timber fence approximately 1.8 metres high on the boundary between the two properties that would partially screen the proposed extension. Whilst the appeal proposal would alter the outlook from this property, due to the separation distance and the intervening fence, the extent of this alteration would not be of such a magnitude that it would be harmful to the living conditions of the occupiers.
18. Due to the separation distance of other neighbouring properties from, and their relative positions to, the appeal building, the appeal proposal would not have any effects on these other properties.
19. I therefore conclude that the proposed development would cause harm to the living conditions of the occupiers of number 122 Church Road due to loss of outlook and increased overshadowing. For this reason, the appeal must fail, notwithstanding that I have found no harm to other neighbouring properties.

Conclusion

20. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR