

Appeal Decision

Site visit made on 15 September 2022

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2022

Appeal Ref: APP/Z5060/D/22/3303928

82 Coleman Road, Dagenham, RM9 6JU

- 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 Isamedin Gosturani Drilona against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 22/00526/HSE, dated 25 March 2022, was refused by notice dated 17 May 2022.
 - The development proposed is erection of a double storey rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. There is one main issue which is the effect of the proposed first floor extension on the living conditions of occupiers of Nos 80 and 84 Coleman Road with respect to outlook and visual intrusion.

Reasons

3. The appeal dwelling is a mid-terraced house in a quiet residential street of similar properties. A single storey extension some 6m in depth and across the entire width of the dwelling has been judged by the Council not to require Prior Approval and has been constructed. The appeal proposal is for both the single storey extension as built and a first floor extension above part of it. The first floor element would be some 3m in depth. It would abut the boundary with No 80 and be off-set from the boundary with No 84.
 4. The Council raises no objection to the single storey part of the proposed extension and I agree that this would be acceptable.
 5. The submitted drawings demonstrate that the proposed first floor extension would comply with the 45° rule as set out in the Building Research Establishment (BRE) document "Site Layout Planning for Daylight and Sunlight: A guide to good practice (2022)" which specifically aims to ensure that adequate light is maintained at neighbouring properties.
 6. However, the Council in its Supplementary Planning Document "Residential Extensions and Alterations" (SPD), 2012, sets a more exacting standard which
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is aimed at ensuring there is no material loss of outlook or visual intrusion leading to an overbearing effect. This expects first floor extensions not to breach a 45° angle taken from the rear corner of the adjoining property.

7. In the context of No 80, which has not been extended, the first floor rear window serving a bedroom is set away from the shared boundary such that an unobstructed 45° angle would be achieved from the closest edge of the window. Under these circumstances, I agree with the appellant that the SPD standard can be applied with a degree of flexibility because there can be no loss of outlook from a blank wall or obscure glazed window and adequate outlook would be maintained from both the bedroom window and glazed door below, such that the extension would not appear overbearing.
8. At No 84, which has no extensions at either ground or first floor, there is a first floor window in close proximity to the shared boundary. The proposed extension would breach the 45° rule as set out in the Council's SPD. Moreover, the rule would also be breached if measured from the near edge of the window. I therefore agree with the Council that, although there would be no material loss of light, the proposed extension would have a noticeably detrimental effect on outlook from this window and would appear overbearing. Given its modest size, the harmful effect on the dwelling as a whole would be material, the bedroom window being the only main window in the rear elevation, with the kitchen below being served by a glazed door.
9. The appellant has drawn my attention to a similar extension at 52 Coleman Road which, it is suggested, has a similar relationship with windows in the adjoining dwelling, No 50. Permission for this was granted in June 2019 under the same policy and guidance. However, details, including plans relating to this extension have not been provided in evidence and so I cannot determine the extent to which it is similar to the appeal proposal. In any case, the proposed extension at No 82 would fail to comply with the Council's SPD. Therefore, even if an extension exists nearby which does not comply, this would not necessarily justify allowing another non-compliant development.
10. It is concluded on the main issue that although there would be no materially detrimental effect on living conditions of occupiers at No 80, the proposed first floor extension would have a materially harmful effect on the living conditions of occupiers of 84 Coleman Road with respect to outlook and visual intrusion. In consequence, taken in the context of strategic policies in The London Plan, 2021, and the Council's Core Strategy, 2010, it would conflict with Policies BP8 and BP11 of the Borough Wide Development Policies Development Plan Document, 2011, and the National Planning Policy Framework. Taken together, these expect new development to provide a high standard of amenity for existing and future users and, specifically, not lead to significant loss of outlook. It would also conflict with emerging policies in the Draft Local Plan 2037 which seek to ensure similar protection.
11. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

KE Down
INSPECTOR