



Appeal Decision

Site visit made on 1 November 2022

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/U5930/D/22/3293119

37 Fleeming Road, London E17 5ET

- 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 T Sadana against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 213042, dated 21 September 2021, was refused by notice dated 23 December 2021.
 - The development proposed is part single-storey, part two-storey rear extension and dormer loft conversion.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision refers to the proposal's effects on occupiers of the adjoining dwelling which the Decision Notice describes as No.39. From my site visit, I confirmed the adjoining dwelling includes Nos 43 and 43a Fleeming Road, a ground-floor flat and first-floor flat, respectively.

Main Issue

3. The main issue in this appeal is the proposal's effects on the living conditions of the occupants of 43 and 43a Fleeming Road, with particular regard to outlook, daylight and sunlight.

Reasons

4. The appeal property adjoins a terraced row of Victorian, L-shaped dwellings. The appeal property is a more recent, mid-20th Century addition to the row with a square footprint, hipped roof, and simple, modern design, which differs in style, appearance, and layout to the adjoining period properties that form the predominant house type in the area.
5. The proposal involves construction of a two-storey and single-storey extension to the rear of the appeal property and alterations to the roof to provide a dormer and gable end.
6. The dwelling which adjoins the appeal property has been subdivided into flats. A one-bedroom flat, No 43, is situated at the ground floor and a two-bedroom flat, No 43a, is located at the first-floor with an additional storey of accommodation in the roof and dormer.

7. No 43's outrigger projects rearwards into a communal garden and includes a bathroom and kitchen on each floor serving each flat. No 43's kitchen also functions as an office space for the occupants. A door at the rear of the outrigger provides the first-floor flat with access to the garden.
8. The outrigger's flank wall faces the shared boundary with the appeal site. A glazed door surrounded by windows is located at the ground floor at No 43's kitchen/office. The door opens onto a path to the communal garden which runs between the outrigger and boundary. Each flat's bedrooms are located within the main part of the building, with their rearward-facing windows set between the outrigger and side of the appeal property.
9. The Waltham Forest Residential Extensions and Alterations Supplementary Planning Document 2010 (SPD) indicates that the rear of houses can generally be extended by up to 3 metres depending on the arrangement of the backs of houses.
10. The existing rear elevation of the appeal property is not typical as it is not aligned with the rear of the main part of the building of the adjoining terraces. The appeal property's rear elevation is set approximately 1.5m beyond this building line and is broadly aligned with No 43's kitchen/office door and No 43a's kitchen window. This existing layout creates a sense of enclosure at the flat's bedroom windows and kitchen door/windows.
11. Windows situated at the flank of Nos 43 and 43a's outrigger's face broadly south and enjoy a generous amount of daylight and direct sunlight. Outlook from the flank windows is relatively open with views of the sky and distant trees above the boundary wall.
12. The proposed extension would be staggered in height, with the section closest to the shared boundary being of a single storey with a sloping roof. The proposed extension in combination with the existing arrangement at the rear of the dwellings would create a tunnelling effect between the appeal property and the outrigger. Therefore, whilst the proposed extension is of 3 metres in depth, by virtue of its height the two-storey section of the proposed extension would give rise to an overbearing sense of enclosure which would adversely affect the outlook of the occupants of the neighbouring flats, particularly from the kitchens, bedrooms, and garden path.
13. The SPD indicates that an extension should not exceed a line taken at 45 degrees from the edge of the nearest ground floor window of a habitable room in an adjoining property. In the context of the SPD, the neighbouring bedrooms and kitchens are considered habitable rooms. The proposed extension would break the 45-degree line taken from the bedroom windows and would be directly parallel with the glazed door and windows which provide the only source of natural light to each flat's kitchens.
14. Whilst the appeal property's existing rear elevation already breaches the "45-degree rule", the additional enclosing effect of the proposal would significantly reduce the amount of daylight and sunlight to each flat's bedroom, kitchen, and to the garden path area, thereby adversely affecting the living conditions of occupants.
15. The appellant's statement includes a shadow study which seeks to illustrate the proposal's effects upon direct sunlight on nearby dwellings. Whilst the

appellant's statement indicates that the study has been carried out using industry standard software by a suitably qualified person, details of the methodology or a more detailed daylight/sunlight study have not been provided. I cannot, therefore, be certain whether those habitable rooms at Nos 43 and 43a would receive sufficient daylight and sunlight.

16. As set out above, the proposal would adversely affect the living conditions of the occupants of 43 and 43a Fleeming Road, with particular regard to outlook, daylight and sunlight. The proposal would therefore conflict with Policy DM4 and Policy DM32 of the Waltham Forest Local Plan Development Management Policies (2013) which require proposals for the extension of existing buildings to protect the occupiers of nearby buildings from suffering excessive loss of residential amenity and ensure that daylight and outlook is maintained for neighbours in their homes and gardens. The proposal would not accord with Waltham Forest Local Plan Core Strategy (2012) Policy 13 and Policy 15 which require development proposals to be of highest quality design and ensure satisfactory amenity is provided for surrounding occupiers.
17. In addition, the proposal would not satisfy the design guidance set out in the Waltham Forest Residential Extensions and Alterations Supplementary Planning Document (2010) which seeks to reduce the effects of development on the living conditions of neighbours.

Conclusion

18. For the reasons given above, having assessed the case against the development plan as a whole and having had regard to all other relevant material considerations, I conclude that the appeal should be dismissed.

E Dade

INSPECTOR