



Appeal Decision

Site visit made on 25 October 2022

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2022

Appeal Ref: APP/U5930/D/22/3299694

56 Milton Road, Waltham Forest, Walthamstow, E17 4SR

- 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 Matthew Swank against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 220937, dated 28 March 2022, was refused by notice dated 19 May 2022.
 - The development proposed is described as '*Construction of single storey rear/side infill extension and first floor rear extension. Enlargement of existing ground floor rear projection window opening to facilitate the installation of bifold doors and alterations to the existing roof, formation of an opening at first floor rear elevation to facilitate the installation of an aluminium window. Removal of existing windows at principal elevation and construction of a bay frontage with installation of aluminium windows*'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The proposal comprises a number of elements. The Council raised no concern regarding the proposed two-storey bay to the front elevation. I have no reason to disagree. The main issue therefore is the effect of the proposed extensions to the rear upon the living conditions at 54 Milton Road with particular regard to visual impact and light.

Reasons

3. The appeal property is a two-storey terraced house with an L-shaped ground floor plan. A single-storey projection to the rear extends approximately 6.5m and is mirrored at No 58. The void to the side of this projection is mirrored by the opposing neighbouring property at No 54. The proposal would include filling the void adjacent to No 54 with a single-storey extension and lean-to roof, and construction of a first-floor extension to a depth of 3.1m, with the remainder of the original mono-pitched roof over the single-storey element altered to a flat roof.
4. The Council's *Residential Extensions and Alterations Supplementary Planning Document* (SPD), adopted in 2010, deals with rear extensions at section 5.2.1. For two-storey rear extensions it states that the Council will use the '45-degree rule' as a guide to determining the acceptability of proposals. It goes on to say

that an extension greater than one storey should not exceed a line taken at 45 degrees from the centre of the nearest window of an adjoining property.

5. The application drawings show a line projected at 45 degrees from the neighbour's nearest habitable window at No 58. This shows, to the Council's satisfaction, that the proposed first-floor extension would not breach the 45-degree rule and would therefore have no impact on the amenities at No 58. No such line has been drawn on the plans in relation to No 54. However, the Council's officer's report states that the depth of the first-floor extension would exceed the relevant 45-degree line, although there is no substantive evidence to support this assertion. By my estimate, the mid-point of the nearest window to No 54 would be in a similar position to the mid-point of the nearest window to No 58. As such, the 45-degree line would not be broken by the first-floor extension. Even if that were not the case, any infringement of the guideline by the first-floor extension would be very minor and, due to the separation distance involved, unlikely to have any significant impact upon outlook from the rear facing windows at No 54, or upon levels of daylight penetrating any habitable floorspace.
6. With regard to single-storey rear extensions on L-shaped properties the SPD advises that it is generally inappropriate to square the property by infilling an L-shaped plot as this can create a tunnel effect for neighbours and be too overbearing. The SPD also states that, as a rule of thumb, homeowners can generally extend the back of the house by up to 3m but that anything over this is also likely to be too overbearing for neighbours. No 54 retains its original void adjacent to the boundary with the appeal property. Given these circumstances, the proposal represents precisely the type of development the SPD advises against.
7. The side extension would immediately adjoin the side common boundary between Nos 54 and 56 and would run for a depth of 6.41m. The eaves height of 2.5m would project noticeably above the height of a typical residential garden boundary enclosure. In my assessment, due to its height and depth, the side extension would impose itself as a dominant and overbearing presence when seen in the outlook from the nearest ground floor rear facing window, regardless of how the neighbour's rear garden might be used. This would be harmful to the residential amenities enjoyed by the neighbour.
8. There is no information before me to suggest that levels of daylight penetrating the adjoining living space at No 54 would be materially affected by the ground floor extension. Nevertheless, by failing to maintain the quality of the existing outlook from this space, the proposal would conflict with the explicit requirements of part (A) of Policy DM32 of the Council's Development Management Policies Local Plan (DMP), adopted in 2013, which deals with managing the impact of development on occupiers and neighbours. It would also conflict with part A (iii) of DMP Policy DM4 insofar as it requires residential extensions to avoid excessive loss of amenity to existing occupiers. By failing to display a standard of design that adequately responds to its context the proposal would also conflict with DMP Policy DM29. For these same reasons the proposal would conflict with the strategic aims of the Council's Core Strategy 2012 Policies CS2, CS13 and CS15 for creating high quality housing, satisfactory amenity for occupiers and well-designed buildings.

9. I understand that the neighbour at No 54 did not raise any objection to the planning application, but that does not alter my findings that the development would be harmful to this neighbour's living conditions. The presence of other infill extensions to other properties in the area is noted. However, I do not know the planning background to these other cases. Neither do they mitigate the effect the development would have directly upon the amenities at No 54.
10. I have noted a suggestion that a similar ground floor extension could potentially be built as permitted development. However, there is no evidence to demonstrate that such a fall-back position is anything more than just a theoretical possibility. I therefore attach limited weight to this argument. The appellant's need to improve their living space to accommodate their growing family is noted. I attach some small weight to this need in the overall planning balance.

Conclusions

11. For the reasons given, I find that the proposal would be harmful to the living conditions at 54 Milton Road. Paragraph 2 of the National Planning Policy Framework states that planning law requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The weight that I attach to the other material considerations that have been put to me is not sufficient to outweigh the harm that I have identified and the conflict with the development plan. Accordingly, and having regard to all other matters raised, the appeal is dismissed.

John D Allan

INSPECTOR