

Appeal Decision

Site visit made on 31 January 2023

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/U5930/D/22/3295863

35 Millfield Avenue, Walthamstow E17 5HH

- 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) Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Iliana Rumenova against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 220091, dated 14 January 2022, was refused by notice dated 22 February 2022.
 - The development proposed is described as 'Prior approval for the construction of a single storey rear extension which would extend 6.00m beyond the rear wall of the existing dwelling, a maximum height of 3.00m and an eaves height of 3.00m.'
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a single storey rear extension which would extend 6.00m beyond the rear wall of the existing dwelling, a maximum height of 3.00m and an eaves height of 3.00m at 35 Millfield Avenue, Walthamstow E17 5HH, in accordance with the terms of application Ref 220091, including the Site Location Plan; Existing Plans, Ref P01; Existing Elevations, Drawing Ref P02; Proposed Plans, Ref P03; and Proposed Elevations, Ref P04; and the details submitted with it pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2).

Preliminary Matters

2. The relevant provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) do not require regard to be had to the development plan or supplementary guidance. Accordingly, I have had regard to those policies and any supplementary guidance cited in the decision notice only in so far as they are a material consideration relevant to matters relating to the main issues. They are not, in themselves, determinative.

Main Issue

3. The main issue is the effect of the proposal on the amenity of adjoining premises.

Reasons

4. The appeal site comprises an end terrace dwelling. The proposed extension would be built along the shared boundaries with No's 33 and 37 which are marked by fences to both sides. The proposal would extend to a significant length. However, the rear gardens of the appeal site and adjoining dwellings are long and the addition of a structure 1m above the existing fence line would not unduly alter the outlook from the rear elevations or garden areas of these properties. As such, while the proposal may be visible, outlook would not be unduly harmed for occupiers of these properties.
5. I note the objection from the occupier of No 33 was withdrawn during the appeal, although there are further concerns from the occupier of No 37 with regards to a loss of light. This is not in the reason for refusal in the decision notice, and there is minimal analysis of this in the Council's officer report. From my observations, the host property and those adjoining are south facing. However, there would already be some shadowing caused by the existing boundary fences. An additional 1m in height along the shared boundaries would be unlikely to cause a significant loss of light and there is nothing before me to indicate this would be harmful.
6. Consequently, the proposed development would not be harmful to the amenity of the adjoining premises with regards to outlook or loss of light. As such it would accord with Policies DM4 and DM32 of the LP¹ and CS13 of the CS² which seek to protect the living conditions of occupiers of neighbouring properties, among other things.

Conditions

7. The appellant's attention is drawn to the conditions and limitations imposed on the granting of prior approval within paragraph A.3 of the GPDO. These ensure the details of the proposal are adhered to.

Conclusion

8. For the reasons given above, I conclude that the appeal should be allowed, and prior approval is granted.

C McDonagh

INSPECTOR

¹ Waltham Forest Local Plan – Development Management Policies (October 2013)

² Waltham Forest Local Plan – Core Strategy (March 2012)