



Appeal Decision

Site visit made on 26 March 2023

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th April 2023

Appeal Ref: APP/B5480/D/22/3309544

2 Melstock Avenue, Upminster, Havering RM14 3UP

- 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 Daniel Lyons against the decision of the Council of the London Borough of Havering.
 - The application Ref P0981.22, dated 16 June 2022 was refused by notice dated 16 August 2022.
 - The development proposed is described as demolition of existing single storey side and rear extensions and construction of new single storey front, side and rear extensions.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing single storey side and rear extensions and construction of new single storey front, side and rear extensions at 2 Melstock Avenue, Upminster, Havering RM14 3UP in accordance with the terms of the application reference P0981.22, dated 16 June 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location, Block Plan and Drawing No. MSK/01/A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the living conditions of the occupiers of No. 4 Melstock Avenue.

Reasons

3. The site is within a predominantly residential area characterised typically by two storey, semi-detached and terraced properties. The appeal property is an end terraced two storey property which has been extended.

4. The Havering Residential Extensions and Alterations Supplementary Planning Document (2011) (the SPD) confirms that extensions should respect and be subordinate to the original dwelling. The SPD in principle supports development of single storey rear extensions on terraced properties of up to 3m, an extension exceeding this is subject to a 45 degree line taken from the boundary.
5. The single storey rear extension proposed projects 5m from the rear elevation of the property along the shared boundary with the attached neighbouring property, No. 4 Melstock Avenue. The extension does not comply with the guidelines contained within the SPD.
6. Notwithstanding this, it is important to recognise that such guidance does not constitute a 'black and white' set of rules to be applied rigidly or exclusively when other material considerations indicate that an exception may be appropriate.
7. From the information I have before me I understand that a prior approval¹ application was made which secured, at the appeal site, a single storey extension projecting 6m from the rear elevation along the boundary with No. 4 Melstock Avenue. I also understand that planning permission has been approved² for an extension projecting 4m from the rear elevation of the property adjacent the boundary shared with No. 4.
8. I give the fallback position that a 4m or 6m extension could be erected adjacent the shared boundary with No. 4 significant weight.
9. The development will cause a degree of overshadowing to the occupiers of the neighbouring property No. 4 and the extension will be obvious to the outlook of the neighbouring occupants. Notwithstanding this taking a pragmatic approach given the lack of objections, the history of the site in terms of the prior approval and planning permission I conclude that the development would not harm the living conditions of the occupants of No. 4 Melstock Avenue.
10. There is no conflict with Policy 7 of the Havering Local Plan 2016-2031 (2021) which amongst other things seeks to protect the amenity of existing and future residents.

Conclusion and Conditions

11. For the above reasons I conclude that this appeal should be allowed.
12. I have imposed conditions relating to standard time limit for commencement of development and plans to be adhered to as this provides certainty. I have also added a condition concerning materials to ensure a satisfactory appearance.
13. A condition has been imposed restricting the use of the flat roof as a balcony area in the interests of the amenity of the living conditions of occupiers of neighbouring properties.

C Pipe

INSPECTOR

¹ Application Reference: Y0073.22

² Application Reference: P0980.22