



Appeal Decision

Site visit made on 27 June 2023

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th August 2023

Appeal Ref: APP/U5930/D/23/3315883

95 Sinclair Road, London E4 8PP

- 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) and 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 Mr I Suleman against the decision of Waltham Forest London Borough Council.
 - The application Ref 222954, dated 10 October 2022, was refused by notice dated 23 November 2022.
 - The development proposed is a single storey rear ground floor extension.
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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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for a single storey rear ground floor extension at 95 Sinclair Road, London E4 8PP in accordance with the details submitted pursuant to Schedule 2, Part 1, Paragraph A.4 (2) of the GPDO through application Ref 222954, dated 10 October 2022, subject to the standard conditions laid out at paragraphs A.3 and A.4 of Schedule 2, Part 1 of the GPDO.

Preliminary Matters

2. The description of development given in the Council's decision notice and that given in Part E of the appeal form differs from that given in the prior approval application form. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application form in my formal decision and in the banner heading above, albeit I have removed elements of wording which are not acts of development.
3. Under Article 3(1) and Schedule 2, Part 1, Class A of the GPDO, planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions.
4. There is no dispute that the proposal meets the limitations set out at paragraph A.1. of Part 1 of the GPDO. However, the Council received a written objection to the proposal from the occupier of an adjoining premises. The condition set out at paragraph A.4.(7) of Part 1 of the GPDO requires that '*Where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises.*'. I have considered the appeal on the same basis.

5. The Council's reason for refusal refers to development plan policies. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 1, Class A do not require consideration of the development plan. Therefore, I have had regard to the policies of the development plan drawn to my attention only in so far as they are material considerations relevant to the impact of the proposed development on the amenity of any adjoining premises.

Main Issue

6. The main issue is the effect of the proposed development on the amenity of the occupiers of the adjoining premises with particular regard to outlook and light.

Reasons

7. The appeal property is a two-storey detached house with a two-storey flat roofed extension to the side adjacent to 97 Sinclair Road. That extension runs for almost the depth of the main house. The house is set towards the front of its plot, but slightly further back than the houses to either side. It has a long rear garden similar to those neighbouring houses either side. There is tall solid fencing to the common boundaries with No 97 and 91 Sinclair Road, much of which is largely obscured by vegetation.
8. The main rear wall of No 95 projects a short distance beyond the original rear walls of Nos 91 and 97. However, both of those neighbouring houses have been extended. No 97 has a flat roofed single storey extension that generally aligns with the rear wall of No 95. No 91 has a two-storey flat-roofed outrigger which is set further in from the original side wall of that house and projects a short distance beyond the rear wall of No 95.
9. The proposed extension would cover the full width of the original rear wall of No 95 and project 6m into the garden beyond that wall. However, significant separation would be provided between the side wall of the outrigger to No 91 and the proposed extension. Similarly, a reasonable separation would remain between the side wall of the proposed extension and the common boundary with No 97 beyond which there is a further gap to its rear extension.
10. I noted during my site visit that there were windows to habitable ground floor rooms in the main rear wall of No 91 and in the rear and side wall of the outrigger. The rear of the extension to No 97 appeared to be glazed across its width. However, given the height of existing boundary fencing and vegetation to both boundaries, the finished eaves height of the flat roof to the proposed extension which would not project significantly above that fencing, and the extent of separation between the proposal and the existing houses either side, it would not appear as an overly dominant or overbearing structure when viewed from windows in nearby properties or from within rear garden areas.
11. The Waltham Forest Residential Extensions and Alterations Supplementary Planning Document February 2010 (the SPD) states that extending the rear of houses by over 3 metres is likely to be overbearing on neighbours. It continues that single storey extensions 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. The proposal would not meet these elements of the SPD. However, this represents guidance rather than policy. In any event, the

dimensions of the proposal are within the limits for larger extensions referred to in Class A, paragraph A.1(g) of the GPDO, which postdates the SPD.

12. Whilst the appeal proposal would be of a greater depth than usually considered acceptable in the Council's SPD, the outlook from the windows and garden area of the adjoining houses to either side of No 95 would not be unacceptably restricted, and there would be no significant loss of light. The proposal may not comply with the 45-degree rule, as illustrated in the SPD in respect of windows to the rear of No 97. However, the orientation of the properties and the presence of the existing tall boundary fences would mitigate the limited extent of any harm in respect of outlook from those windows.
13. The outlook from windows and from the rear patio areas to neighbouring houses either side would not be altered to any harmful degree, and the proposal would have no discernible effect on the outlook from dwellings and gardens to the rear of the appeal site.
14. The houses in this part of Sinclair Road have rear walls that face generally northwards. As a result, overshadowing will occur to the patio areas close to the rear walls of the appeal property and those of the neighbours either side largely because of the size of the existing houses and their positioning relative to each other. The limited height of the proposal, and the separation that would exist between the proposal and the neighbouring houses are such that the extent of overshadowing would not significantly change. For the same reasons, no significant change would arise in the levels of daylight and sunlight afforded to habitable rooms in the neighbouring houses.
15. There are no windows in the side walls of the proposed extension. Accordingly, there would be no direct overlooking of neighbours to either side. Neighbouring properties to the rear are some considerable distance away from the proposal due to the long rear gardens, and, noting the mature trees and tall solid fencing at the bottom of the garden of No 95, those neighbouring properties would not be overlooked by the proposal. Any limited oblique views from windows in the proposed extension towards gardens either side would be restricted by the tall fencing to the boundaries.
16. From all the evidence before me as well as my observations on site, I conclude that the proposal would result in no material harm to the amenity of the occupiers of the adjoining premises with particular regard to outlook and light. Although not determinative to this case, the proposal would accord with the requirements set out in Policies DM4 and DM32 of the London Borough of Waltham Forest Development Management Policies Local Plan (October 2013), which seek to ensure the occupiers of nearby properties do not suffer any excessive loss of residential amenity from neighbouring extensions.

Conclusion

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

David English

INSPECTOR