
Appeal Decision

Site visit made on 10 February 2024

by Elaine Benson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th March 2024

Appeal Ref: APP/Z5060/D/23/3332719

5 West Road, Chadwell Heath, Romford RM6 6YA

- 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 Mrs Donna Davis against the decision of London Borough of Barking and Dagenham Council.
 - The application Ref 23/01030/HSE, dated 3 July 2023, was refused by notice dated 16 August 2023.
 - The development proposed is demolition of existing single storey rear conservatory and the erection of new single storey rear conservatory.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the appeal proposal on the living conditions of the occupiers of the adjoining property, No 3 West Road (No 3).

Reasons

3. The current appeal follows a series of planning applications and appeals relating to the retention of a conservatory at the rear of the host property. In summary, the previous appeals were dismissed due to the effect of the conservatory on the living conditions of the residents of No 3.
4. The appellant now seeks planning permission for an amended scheme with the proposed conservatory now set in 1m from the shared boundary. It would have the same 4m depth and a 3m high flat roof containing a roof light. The conservatory would be added to the existing rear extension, leading to a combined depth of some 7.5m. It is therefore necessary to consider whether the proposed set-in from the boundary would be sufficient to overcome the harm identified by the previous Inspectors.
5. The conservatory would be due south of the rear of No 3. It and No 5 both have similarly sized flat roofed, single storey extensions with a small gap between them. Notwithstanding the 1m set-in from the common boundary, the upper parts of the conservatory would be visible above the fence for the entirety of its length. The height and cumulative depth of No 5's extension and the conservatory would be overbearing and would have an enclosing effect on the neighbouring occupiers, having regard to its relationship with the rear windows of No 3. This harm would not be alleviated by the shared boundary treatment.

6. Furthermore, there would be light spillage from the sizeable lantern roof and from the obscurely glazed side windows close to the boundary. The light would be visible from the neighbouring property for some distance into the garden. As identified by the previous Inspectors, this harm would also serve as a reminder of the excessive size and presence of the conservatory, also contributing to its 'unduly proximate and enclosing' presence. The light spillage from the large lantern roof would also be visible from the upper floor of No 3, serving as a further reminder of the conservatory's size and presence.
7. As noted in the previous appeal decisions, shrubs within the neighbouring property's garden grow adjacent to the existing extension and conservatory. This vegetation may appear dense and somewhat enclosing, particularly during the summer and could be considered to partially screen the proposed conservatory. However, this would not be all year round and its presence would continue to be felt in the outlook from the rear of No 3 through this planting.
8. A 'Daylight and Sunlight Report (Neighbouring Properties)' (DSR) dated 24 November 2021 was submitted in support of the previous appeal and the current appeal planning application. It has not been updated to relate to the current proposal. Nonetheless, the DSR concludes that, whilst having a 'low impact' on light received by the windows and garden of the neighbouring property, the existing development would 'sufficiently safeguard' those daylight and sunlight amenities. In my judgement, the set-in further from the boundary would be likely to further minimise the effect of the conservatory on daylight and sunlight levels. However, as concluded by the previous Inspector, this factor is not determinative in its own right. It would not overcome the overbearing and enclosing effects of the conservatory on the living conditions of the occupiers of No 3 that have been identified.
9. Despite being set in from the boundary, I conclude that the cumulative depth of the rear extension and the conservatory, the design and proximity of the conservatory and the light spillage from its glazing would harm the living conditions of the neighbouring occupiers. It is therefore contrary to the aims of Policy BP8 of the Local Development Framework Borough Wide Development Plan Document, as supported by its Policy BP11 in respect of the need to maintain residential amenity. Similarly, the proposal would conflict with Part D of London Plan Policy D6 (Housing Quality and Standards). I consider these policies to be the most relevant to the appeal proposal. The proposal is also counter to the detailed design guidance set out in the Residential Extensions and Alterations Supplementary Planning Document which, among other things, seek to protect neighbouring living conditions.
10. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

Elaine Benson

INSPECTOR