



Appeal Decision

Site visit made on 27 February 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2024

Appeal Ref: APP/U5930/W/23/3330758

169 Warner Road, Waltham Forest, Walthamstow E17 7DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Joe White against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref is 230392.
 - The development proposed is construction of a rear dormer roof extension to the main roof and extension over the existing two-storey rear outrigger along with the installation of roof lights to the front roof slope and the installation of a first-floor window to the flank to the property's rear flank elevation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development is usually taken from the application form. However, the plans indicate that the reference to a roof extension in the description of development includes the insertion of a dormer at the rear, rooflights to the front and a new window in the rear flank elevation. The appeal form reflects the description on the Council's decision notice, confirming the appellant's agreement to the change. The Council dealt with the appeal on this basis, and I shall proceed on the basis of the description, as set out in the banner heading above.
3. From the evidence before me there is no dispute between the parties as to the acceptability of the rooflights to the front elevation or the window in the rear flank elevation. I shall therefore confine my detailed considerations to the proposed dormer at the rear, and the conversion of the roof space to a habitable room.
4. The appellant has drawn my attention to a more recent decision at the appeal site for the construction of a rear dormer extension, installation of three rooflights to the front roof slope and the installation of a first-floor window to the rear flank elevation¹. The recent application is for a similar development as the appeal before me but with a smaller dormer to the rear. This more recent decision constitutes a valid fallback position as there is a significant likelihood that the development, as approved, would take place should the appeal before me fail. I have, therefore, given substantial weight to the fallback scheme in considering this appeal.

¹ Council reference 231983 approved 29 September 2023

5. The Waltham Forest Local Plan Part 1 – Shaping the Borough 2020-2035 (LP1) was adopted by the Council on 29 February 2024 and replaces, in whole, the Waltham Forest Local Plan Core Strategy, adopted 2012 (CS) and the London Borough of Waltham Forest Local Plan Development Management Policies, adopted 2013 (DMP). This appeal was received before the adoption of LP1 and as such LP1, at that time was emerging policy and Policies from the CS and DMP were referred to in the decision notice.
6. However, both parties have had an opportunity to comment on the relevant policies within LP1. Therefore, in accordance with the National Planning Policy Framework (the Framework) I have given full weight to LP1 in my decision.
7. A revised Framework came into force on 19 December 2023 with a further change published on 20 December 2023. The paragraphs most pertinent to this appeal are unchanged, other than their numbering. Having considered the changes and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issues

8. The main issues are the effect of the proposed development on:
 - the character and appearance of the existing property and the surrounding area; and
 - whether the proposed development would provide appropriate living conditions for the existing and future occupiers of the property, with regard to internal living space.

Reasons

Character and appearance

9. The appeal site is a first floor flat within a mid-terrace property which lies in a residential area of two-storey terraced flats and houses. The design and scale of the terraces, with pitched roofs, raised parapets, chimneys, and brick arched doorways, provides a pleasant character to the area which is enhanced by the set back from the road, front gardens, hedge boundaries and roadside trees.
10. The proposed rear dormer is flat roofed and L-shaped. It would provide a new living area in the roof space with the existing first-floor living area converted to a second bedroom. The dormer is set back from the eaves of the house. However, it would fill most of the width of the rear roof slope of the dwelling and would also extend into the roof slope of the original two-storey outrigger. The dormer would also be only just below the original ridge height.
11. Section 5.2.4 of the Waltham Forest Residential Extensions and Alterations Supplementary Planning Document, adopted February 2010 (SPD), acknowledges that roof extensions are a useful way of extending a property. The SPD also advises, in section 5.1, that all extensions and additions to dwellings should be of high-quality, improve, or at least maintain, the character of the dwelling and the area, and should be subordinate to the existing dwelling.
12. With regard to dormers, the SPD advises that these should normally be to the rear of the property. However, the SPD also seeks to resist dormers that turn

the corner of an L-shaped property and result in the creation of one large extension. Such dormers are likely to have a visual effect on the character of the original building and the SPD recommends two smaller dormers as a solution to this.

13. Albeit not extending the full length of the outrigger, nor beyond the chimney on that part of the building, the proposal would be a dormer extension that turns the corner of an L-shaped building. The dormer would also create a large extension to the roof. That the proposal would be materially different to the photograph of an L-shaped dormer in the SPD would not justify its scale or shape. The photograph within the SPD is for guidance only and each case must, in any event, be considered on its own merits.
14. The appeal scheme would be of a form of development that is resisted in the SPD. The reason for this general constraint is in order to ensure the scale and mass of the dormer is in proportion with the existing house and would not have an adverse visual effect. The appeal proposal, by reason of being a large, L-shaped dormer, would not comply with the SPD.
15. The retention of existing features such as the dividing parapet wall and the chimney are positive. I also acknowledge that the proposed dormer would not be visible from Warner Road due to being at the rear of the terrace. However, there would be glimpsed views of the dormer from Palmerston Road and the dormer would also be visible from the windows at the rear of the neighbouring property, the houses backing onto the appeal site, and from the gardens of neighbouring properties.
16. The dormer, as viewed from these positions, would be visibly L-shaped and a large, top-heavy, addition to the roof plane, extending along both sections of the existing roof. The set down from the ridge height would not be visually perceptible. The dormer would draw attention from the existing features and be disproportionate to the existing dwelling. The proposal would, therefore, have a harmful visual effect on the character of the original building and the surrounding area.
17. The fallback scheme, although still a dormer to the rear, would only be on the rear roof plane of the dwelling, and not extend onto the outrigger. The approved scheme would be more subservient, visually smaller, integrate better with the existing building and would be less harmful to the character of the existing building. The fallback scheme is less harmful than the appeal scheme before me. As such the fallback position would not justify the appeal proposal, which would cause greater harm to the external appearance of the building.
18. For these reasons, the scale and mass of the rear dormer would have an adverse effect on the character and appearance of the existing property and the surrounding area. It, therefore, fails to comply with the requirements of Policy 53 of LP1 which seeks to ensure that development reinforces and/or enhances local character, responds to its context in terms of scale, height, and massing, achieves exemplar quality design that respects its context whilst not unduly restricting style, while also maximising the versatility and adaptability of buildings to accommodate present and future requirements.

Living conditions of occupiers

19. Both main parties agree that the proposed floorspace of the flat would exceed the minimum gross internal floor area which, at the time of the decision, was set out in Policy DM7 of the DMP. The proposal would also exceed the minimum internal space standard set out in table 14.2 of Policy 56 of LP1 and also comply with standards set out in Policy D6 of The London Plan, The Spatial Development Strategy for Greater London, 2021 (LonP).
20. However, the floor to ceiling height for the whole of the proposed lounge within the roof space would be less than 2.5m high. As the floor area to be created would be greater than 25 percent of the gross internal area of the flat the proposal would result in more than 75 percent of the flat having a height of less than 2.5m. This would be contrary to the requirement of criterion 8 of Policy D6 of the LonP.
21. The appellant contends that the proposal would provide more than 75 percent of the minimum floorspace required by the local policies at over 2.5m floor to ceiling height. However, Policy D6 of the LonP is not written to ignore the floor to ceiling height of any floorspace provided over and above the minimum. Moreover, part 8 of D6, the floor to ceiling height requirement, is not linked to part 1, the gross internal floor area requirement.
22. The occupants of the flat would use the whole of the living room not just the 5sqm of it that takes the existing flat up to the 70sqm minimum floorspace required. The proposed dormer would provide an increased volume of space within the proposed living room, a larger and better-lit living room than in the existing flat and release the existing living room to provide an additional bedroom. However, due to the restricted head height, across the whole of the room provided in the roof space, this would result in unacceptable living conditions for the occupiers of the property. The dormer would, contrary to the appellant's assertions, not vastly improve the property or achieve a high standard of accommodation and would negatively affect the occupants of the property as more than 25 percent of the floorspace of the flat would have restricted head height.
23. The fallback position, albeit still with floor to ceiling heights within the living room remaining below 2.5m, would, as detailed in the officer report for the fallback position, ensure that the flat would have more than 75 percent of its floorspace at a floor to ceiling height of 2.5m or over. The fallback scheme is, therefore, also less harmful than the appeal scheme before me in regard to the living conditions of the occupants of the property. As such the fallback position would not justify the appeal proposal, which would cause greater harm.
24. For the above reasons, the proposal would not provide appropriate living conditions for the existing and future occupiers of the properties, with regard to internal living space and would, therefore, be contrary to Policy D6 of the LonP and Policy 56 of LP1 which, taken together, require all development to meet the minimum internal space standards set out in the policies.

Other Matters

25. Both parties have drawn my attention to other dormer extensions within the immediate area, including other L-shaped dormers noted by the appellant. I do not have the precise details of each of these cases and I cannot be certain why any of them were approved in the form they were.

26. From the evidence before me, a number of the L-shaped dormers identified by the appellant either do not have planning permission or were approved as permitted development as an enlargement to a single dwellinghouse. Permitted development alterations do not need to comply with adopted policy and may include alterations which Councils would not support through the planning application process. Furthermore, permitted development alterations do not set a precedent for consideration of proposals which require assessment against policy. The other extensions, including the L-shaped dormers, therefore, do not set a precedent to justify allowing the appeal proposal.
27. That no objections were received from third parties would not alter my decision on the main issues above.

Conclusion

28. For the reasons given above the appeal should be dismissed.

K Townsend

INSPECTOR