



Appeal Decision

Site visit made on 4 August 2024

by A Hartley, LLB(Hons), Solicitor, MBA

an Inspector appointed by the Secretary of State

Decision date: 12 September 2024

Appeal Ref: APP/U5930/D/24/3340840

40 Seymour Road, Waltham Forest, Chingford E4 7LS

- 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 Tuncay Telli against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref is 232075.
 - The development is a single storey lower ground floor rear extension and formation of roof terrace with privacy screen/safety surround.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey lower ground floor rear extension and formation of a roof terrace with privacy screen/safety surround at 40 Seymour Road, Waltham Forest, Chingford E4 7LS in accordance with the terms of the application reference 232075 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:

'Location Plan E4 7LS' (09/08/2020);
AP 1 Proposed Side Elevation and Floor Plans (Part retrospective) (June 2023).
 - 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) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any Order revoking and/or re-enacting that Order no additional windows shall be inserted in the elevations of the extension hereby permitted without the prior written approval of the Local Planning Authority.
 - 5) The roof terrace hereby approved shall not be brought into use until a scheme to provide details of the safety surround, internal spiral staircase access/enclosure to the roof terrace, glazed privacy screen including opacity density and restricted use of the planter area has been submitted to the Local

Planning Authority and approved in writing. Such scheme shall then be implemented prior to use of the roof terrace and thereafter maintained.

Preliminary Issues

2. The description of development in the planning application form is "Planning application to retain certain works and complete the project in accordance with the New Design". However, I have taken the description from the Notice of Decision in this case as it more clearly describes the appeal proposal.
3. There is an extant planning permission (Ref 202780) for "a rear single storey lower ground floor rear extension and formation of roof terrace with safety railings and staircase at ground floor rear elevation" (the Extant Permission). The Extant Permission includes a condition requiring details of a screen to be installed on the roof terrace to protect the privacy of occupants at No. 42 Seymour Road and a condition restricting the provision of any additional openings in the rear extension notwithstanding permitted development rights. This is a similar extension to the appeal proposal and therefore has a realistic prospect of being implemented. I therefore consider the permission to be a genuine fall-back position and have attached substantial weight to it in considering the appeal.
4. For clarity, Plan 20d17pr/5 & Plan 20d17pr/1 (Title: As pre-existing) (received April 2022) are drawings of the dwelling as it existed prior to the implementation of the Extant Permission. Plan 20d17pr/6 and 20d17pr/1 (Title: As permission has been granted) (April 2022) are the proposed drawings of the Extant Permission. The appeal proposal under consideration is drawing reference AP1, which includes the first-floor layout plan, including internal spiral staircase and a planter area. On visiting the site, I saw that the appeal development, absent the stairs, balcony surround, planter area and glazed screen, had already been constructed. The dimensions of the built-out development, as stated in the Council Officer's Report, are in accordance with Plan AP1. A temporary safety barrier surrounded the roof terrace, and it was in use.
5. Prior to determining the appeal, further comments were sought from the main parties in relation to the adoption of the new Waltham Forest Local Plan Part One on 29 February 2024 (WFLP), the new information regarding Daylight and Sunlight dated 13 March 2024 and the wording of condition 5. Any further comments received have been taken into consideration in determining this appeal.
6. In particular, the Council has now confirmed that loss of daylight and sunlight are no longer reasons for refusal as the new information confirms that the effect of the development on the neighbouring occupiers in this regard is acceptable. I have attached substantial weight to this and find no reason to disagree with the conclusion of both main parties that the appeal proposal would not cause unacceptable harm to the living conditions of the occupiers of Nos. 38 and 42 by way of loss of sunlight or daylight. I have had regard to this in identifying the main issues.

Main Issues

7. The main issues are the effect of the proposal on:

- the character and appearance of the host dwelling and the surrounding area; and
- the living conditions of the occupants at numbers 38 and 42 Seymour Road particularly in relation to privacy.

Reasons

Character and Appearance

8. The appeal property is situated in an area characterised predominantly by split level semi-detached dwellings that appear as bungalows of similar design lining the street-scene, on a steep hill that provides long-distance views. To the rear due to the steep downward slope of the gardens, the rear elevation of properties is generally of two or three storeys. Due to the topography, I could observe that within the extensive view from the appeal site, both up and down the rear of properties on the long, linear road, many properties have been extended to the rear and include raised extensions to take advantage of the long-distance views. The appeal property is such a split-level semi-detached dwelling, appearing as a bungalow at the frontage, but to the rear as a two-storey dwelling with a roof dormer. The appeal development is not visible from the street frontage.
9. The appellant seeks to retain a larger rear extension than the Extant Permission. The single storey extension element of the appeal proposal has already been constructed and protrudes approximately two metres further into the rear garden and is approximately 0.5 metres higher but the width is the same as the Extant Permission.
10. Due to the topography of the site, and the adequate length of gardens, the addition of approximately two metres in depth to the single storey extension at this site remains a sympathetic addition to the host dwelling. The appeal proposal is an improvement on the approved scheme, as it would not include an external staircase, with the balcony being accessed internally from the lower ground floor. The balcony safety surround design and opaque glazing suggested by the appellant would be more sympathetic than the approved railings, and the planter area would provide a softer, pleasant feature at the first-floor level. The planter area would also ensure that the extent of balcony area used by the occupiers would be no greater than that already approved
11. Having regard to the example of opaque glazing and glazed balcony surround submitted with the appeal documentation, I consider that appropriate materials would be available that could adequately reduce any bulky appearance that may have occurred with use of some other balcony surrounds or materials. Likewise, details of the access from the spiral staircase can reasonably be agreed subsequently by the Council as there is a realistic prospect that a means of enclosing the stair access that would not unreasonably add to the bulk of the proposal is achievable. These factors could therefore be secured by condition.
12. Overall, for the reasons above, I find the extension does not have an unacceptable impact on the character and appearance of the host dwelling and

the street scene and is subservient to the host dwelling by virtue of its acceptable design and appropriate scale within its context.

13. Accordingly, I find that the proposal complies with policy 53 of the WFLP and policies D1 and D4 of the London Plan (2021) and the National Planning Policy Framework (the Framework), all of which seek high quality design appropriate to its context.

Living Conditions

14. Due to the steep hill on which the appeal property is situated and the steep slope to the rear, there is already an existing degree of overlooking between neighbouring properties at the rear. The use of the proposed roof terrace has the potential to impact upon the privacy of the occupiers of Nos. 42 and 38 when using their outside amenity area. I have had regard to the existing levels of overlooking between properties due to the topography of the area. However, a condition requiring details of screening of 2 metres in height at the boundary with No. 42 and requiring confirmation of the opacity of the screening would be necessary in this case to protect the privacy of the occupiers of No. 42. To protect the privacy of the occupiers of No. 38 it is also necessary to require that the planter area identified on the submitted plans is retained as landscaping only, and not to be used as part of the patio area of the roof terrace. This would have the effect of limiting the extent of overlooking towards No. 38. Subject to these conditions, I find that any additional limited impact on privacy would be acceptable.
15. I find that in its context, although the appeal development is marginally higher than the Extant Permission, through use of appropriate materials for the two metre high privacy screen and the balcony surround, it would not have an unacceptably overbearing impact on the living conditions of the neighbours at No. 42, and nor would it unacceptably reduce the amount of sunlight or daylight received at that property.
16. Accordingly, I find that subject to conditions, the proposal complies with policy 57 of the WFLP and the Framework, in achieving good design with a high standard of amenity for existing and future users.

Other Matters

17. An Interested Party raised concerns about additional noise. I do not consider the level of noise from the appeal scheme would increase from the level that would be emitted from the Extant Permission as it would not increase the level of its use above that already approved.

Conditions

18. It is necessary to impose a condition requiring matching materials in the interest of good design; a condition specifying the plans in the interests of certainty; a condition to prevent additional openings within the elevations of the rear extension and a condition requiring details of the planter area, privacy screen, safety surround to the roof terrace and means of enclosure of the internal spiral stairs, to protect the privacy of the occupiers of No.42 and No. 38.

Conclusion

19. Having taken into account all representations made, for the reasons given above, I conclude that the proposal accords with the development plan when considered as a whole and the Framework. Therefore, the appeal should be allowed.

A Hartley

INSPECTOR