



Appeal Decision

Site visit made on 1 September 2024

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

an Inspector appointed by the Secretary of State

Decision date: 1 October 2024

Appeal Ref: APP/U5930/D/24/3342710

20 Liverpool Road, Leyton, Waltham Forest E10 6DN

- 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 Sue and Mario Zeppetelli against the decision of Waltham Forest London Borough Council.
 - The application Ref is 233036.
 - The proposed development is for 'Construction of dormer roof extension to main rear roof, together with installation of two roof lights to front roof slope. Construction of pergola at rear elevation.'
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Decision

1. The appeal is allowed and planning permission is granted for 'Construction of a dormer roof extension to the main rear roof, together with installation of two roof lights to front roof slope. Construction of pergola at the rear elevation.' in accordance with the terms of the application reference 233036 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, save for the solar panels that are excluded from this approval: 100; 101 Rev A; and 102 Rev A.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated following the parties' appeal submissions. However, as the revisions do not affect the matters under consideration in this appeal (other than different paragraph numbering), I did not consider it necessary to seek further comment from the main parties.
3. The description of development on the application form is "Construction of single storey rear shelter and single storey roof extension with associated internal alterations." However, I have taken the description used by the Council in this case as it more properly describes the proposal.
4. The appellant provided some amended plans (101 Rev A and 102 Rev A) as part of the appeal to deal with some minor inconsistencies picked up by the Council. The Council confirmed that the amended plans are accurate, but that

some solar panels should be removed as they did not form part of the original application. The appellant has agreed that the solar panels can be removed from my consideration of this appeal. I am satisfied that my acceptance of the amended plans would not prejudice the interests of any other parties and I have considered the appeal on the basis of them.

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 1 on 29 February 2024 (LP), which supersedes the development plan and policies as shown on the Council's decision notice. Any comments received have been taken into consideration in determining this appeal.

Main Issues

6. The main issues are the effect of the proposed pergola on (i) the living conditions of the occupiers of No.18 Liverpool Road particularly in relation to outlook and light, and (ii) trees and biodiversity.

Reasons

7. The appeal property is a terraced red brick two storey Edwardian house with pitched roof set back from the street with front garden. The surrounding area is characterised by similar houses. To the rear, the appeal property has an existing ground floor extension and a roof extension. The adjoining property at No. 18 has a single storey ground floor lean-to structure which is used as a utility room.
8. The proposed development includes those elements as stated in the banner heading above. It is only the pergola element of the proposed development, which would extend approximately 2 metres beyond the existing ground floor rear extension of the appeal property, that is at issue between the main parties. With regard to the other elements proposed, I am also satisfied that they would be acceptable in planning terms.

Living conditions

9. My attention has been drawn to an assessment undertaken in line with the Building Research Establishment Guide (BRE) "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2011)". It suggests that, given its use, the utility space at No.18 would not be adversely affected by any change in levels of daylight. Moreover, even when assessed it shows that the room would not suffer from a significant loss of daylight as a result of the proposed pergola. In terms of sunlight, again, a utility room would not ordinarily require assessment. However, when assessed it shows that the proposed pergola would not have an undue impact on the level of sunlight at No. 18.
10. Due to the linear relationship between the outlook from the utility window at No. 18 and the appeal property, there would be an oblique view of the pergola from the utility window of No.18. Even though the pergola would be constructed to the boundary, I observed that there is sufficient outdoor space to the rear of both properties so that the pergola would not give rise to an unacceptable sense of enclosure or loss of outlook.
11. Overall, I find that there would not be an unacceptable impact on the living conditions of the occupiers of No. 18 in respect of matters relating to outlook and light. Consequently, I find that the proposed development would comply

with Policy 57 of the LP which requires development to respect the amenity of neighbours including in respect of outlook, daylight and sunlight.

Trees & Biodiversity

12. The fruit trees in the rear garden are not protected by any tree preservation order or planning condition. As such, they can be removed without the need for any consent. It is the intention of the owner to remove the trees and redesign the garden in any event. Overall, I do not consider the removal of trees, which are small and have limited visual amenity would have an adverse impact on the character and appearance of the host dwelling or the surrounding area.
13. Policy 79 of the LP concerns biodiversity and has been referred to by the Council in its reason for refusal. However, I find that the policy relates primarily to major developments. The introduction of a pergola in this domestic garden would not require a biodiversity assessment. I do not find any conflict with the policy.
14. Policy 80 of the LP concerns trees and has been referred to by the Council in its reasons for refusal. However, I find that the policy relates to significant existing trees. I do not consider it applies to the small fruit trees in this rear domestic garden. As such, the removal of the fruit trees would not conflict with the policy.

Conditions

15. I have had regard to the conditions suggested by the Council. In addition to the standard time limit condition, a condition is necessary to require that the proposal be carried out in accordance with the approved plans 101 Rev A and 102 Rev A (save for the installation of solar panels), as this provides certainty.

Conclusion

16. Having taken into account all representations made, for the reasons given above, I conclude that the appeal should be allowed.

A Hartley

INSPECTOR