



Appeal Decision

Site visit made on 19 November 2024

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2024

Appeal Ref: APP/B5480/D/24/3353444

193 Corbets Tey Road, Upminster, RM14 2YN

- 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 Peter Nay against the decision of the Council of the London Borough of Havering.
 - The application Ref P0876.24, dated 20 June 2024, was refused by notice dated 28 August 2024.
 - The proposed development is a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 193 Corbets Tey Road, Upminster, RM14 2YN in accordance with the terms of the application ref P0876.24, dated 20 June 2024, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) 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.
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or other openings shall be constructed on the flank elevations of the extension hereby permitted.
 - 4) The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
 - 5) The development hereby permitted shall be carried out in accordance with the following approved plans: 01, 02, 04 & 05.

Main issues

2. The first two main issues in this appeal are the effect of the proposed development on the character and appearance of the surrounding area, and on the living conditions of adjoining occupiers. A further main issue is the existence of a 'fallback' position.

Reasons

Character and appearance

3. The proposed extension would be across the rear of the house with a depth of 6m and eaves height of 2.85m, with a pitched roof that rises to a small crown roof segment. The general architectural approach to extending the house with a single storey addition would reflect the character of the existing house, which sees a pitched roof, and the wider area which sees single storey extensions.
4. I saw at my site visit there are properties that have evidently been extended to the rear and at upper levels over the years, with differing design approaches. There is also some variety in properties in the wider area with buildings of different designs and siting, not least the adjoining bungalow at 191 Corbets Tey Road that is set further back into its garden than No. 193. The appeal property has a large garden, as do other properties.
5. The proposals would be seen in the garden area and from the rear of other properties in the context of the above mixed character, and within an area where an extension of the scale involved would not appear over-dominant to the host property or locality.
6. The extension would thus not be harmful to the character and appearance of the area, and so be consistent with Policy D4 of the London Plan 2021 and Policy 7 of the Havering Local Plan 2021, and the Residential Extensions and Alterations Supplementary Planning Document 2011 (SPD) which, amongst other matters, seek to ensure development proposals are of a high quality design and respond to the features of the site and local area.

Living conditions

7. The rearward projection of the extension would only come a limited amount beyond the rear of the adjoining property of No. 191, as that dwelling has a rear building line notably deeper than the appeal property. There is a window to the rear of No. 191 close to the boundary line, but from the information presented to me and observations at the site visit, I consider the limited degree of projection beyond that window means there would not be an imposing impact, nor material effect on levels of light. I note the degree of projection beyond the rear wall of No. 191 is within the general tolerance for the projection of rear extensions relative to neighbouring properties, as set out in the SPD, and the Council did not raise objection to the effect on No. 191. This matter reinforces my findings with respect to No. 191.
8. The proposed extension would sit on the boundary with the attached house of 195 Corbets Tey Road. The depth and height of this extension, when combined with the position on the boundary, would be of considerable size. This would impact on the outlook from No. 195 and create an overbearing impact. Policies 7 and 26 of the Local Plan, amongst other matters, resist development that causes unacceptable harm to residential amenity. Similar objectives are set out in the SPD. The impact to the occupiers of No. 195 mean that the proposal would conflict with these policies and the SPD.

The 'fallback' position

9. The appellant and the Council have confirmed that a single storey rear extension of the same depth and height on this boundary with No. 195 could be built under permitted development rights. This followed an application which confirmed prior approval was not needed for such work (ref. Y0076.24), and a subsequent Certificate of Lawfulness confirming the extension would be lawful (ref. D0185.24). This alternative planning outcome has been put forward, and so is a potential 'fallback' position which must be addressed.
10. For a fallback position to be a relevant material consideration, the basic principle is that it must be a real prospect. For the prospect to be real, there must be a greater than theoretical possibility that the development might take place. The fallback position has been clearly explained by the appellant. The scheme differs from the proposals the subject of this appeal only by the width of the extension; the appeal scheme would provide additional floorspace, but it is evident to me that the fallback scheme would still provide a very good-sized extension to the house. The appeal site is free from any obvious obstructions that might prevent implementation of the fallback scheme, and therefore provide the additional space for the appellant that has recently been confirmed as lawful. The Council do not dispute that the appellant would carry out the fallback scheme if this appeal is dismissed.
11. Based on the above findings I am satisfied there is a real prospect of the fallback position being implemented. Consequently, it represents a viable fallback position. However, the degree of weight to be given to the fallback position depends on whether it would be equally or more harmful than the scheme proposed.
12. The extension under the fallback position would have the same impact on the outlook of No. 195 as it is the same depth, height and design. If the appeal was dismissed, then in my judgment there would be no different outcome to the living conditions of No. 195; the appellant is very likely to simply implement the lawful extension. I therefore attach very significant weight to the fallback position.

Overall conclusion

13. I have found that the proposal would not be harmful to the character and appearance of the area, or to the living conditions of the occupiers of 191 Corbets Tey Road, but would be harmful to the living conditions of the occupiers of No. 195 and this would lead to conflict with the development plan.
14. The determination of this appeal must be made in accordance with the development plan unless material considerations indicate otherwise. In my judgement, the fallback position for the appellant represents a material consideration of very significant weight sufficient to outweigh this conflict; there would be no difference to living conditions of adjoining occupiers if the appeal was to be dismissed. As the larger extension the subject of this appeal leads to no other harm, and would provide the appellant with additional living space through the adaptation and extension of his home – which is in general supported by the SPD – the circumstances of this case therefore lead me to allowing this appeal.

15. In the event of the appeal being allowed the Council suggested a number of conditions. I agree that conditions relating to materials and specifying the approved plans are necessary, to ensure a satisfactory appearance to the development and in the interests of precision. In the interests of privacy I have attached the conditions removing permitted development rights for openings in the flank elevations and restricting the use of the roof as a balcony which, although a small space, is a flat roof area. I have modified the wording in those conditions in the interests of precision and enforceability.

C J Leigh

INSPECTOR