



Appeal Decision

Site visit made on 3 January 2025

by **Gary Deane BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th January 2025

Appeal Ref: APP/J1535/D/24/3347909

40 Woburn Avenue, Theydon Bois, Essex CM16 7JS

- 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 Lloyd Parkes against the decision of Epping Forest District Council.
 - The application reference is EPF/0462/24.
 - The development proposed is the erection of a single storey rear and side extension with pitched roof. Pitched roof to have rooflights.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a single storey rear and side extension with pitched roof; pitched roof to have rooflights at 40 Woburn Avenue, Theydon Bois, Essex CM16 7JS in accordance with the terms of the application, Ref EPF/0462/24, subject to the conditions set out in the schedule to this decision.

Procedural matters

2. At the site visit, I visited 38 and 42 Woburn Avenue with the consent of the occupiers of each of these neighbouring residential properties. On each occasion, I was unaccompanied.
3. I saw that the ground floor rear window of No 42 facing the back garden is smaller than shown on the submitted drawings. Despite this discrepancy, I am satisfied that the details of the proposal as shown on the plans and detailed in the written evidence allow a reasonable assessment of the development sought.
4. On 12 December 2024, a revised National Planning Policy Framework (the Framework 2024) was published. The Framework 2024 does not raise any new matters that are determinative to the outcome of this appeal.

Main Issue

5. Given the reason for refusal and the objections raised by others, the main issue is the effect of the proposed development on the living conditions of the occupiers of Nos 38 and 42 with regard to light, outlook, visual impact and sense of enclosure.

Reasons

6. The proposal is to introduce a single storey extension with a dual pitched roof to the rear and side of the appeal property, which is an end terrace house within a predominantly residential area. The new addition would extend across almost the full width of the plot and project outwards into the back garden of No 40.

7. In this position, the new flank walls would be close to and along the rear boundaries shared with Nos 38 and No 42, situated on either side of the site. Due to a slight difference in ground levels, the proposal would occupy an elevated position relative to the rear and side of No 38.
8. There would be some loss of sunlight and daylight to the rear and side of No 38 given the position of the new extension just to the south. However, given the position of the main buildings and boundary fence relative to the new extension, that loss would not be appreciable in extent or duration. Because the proposal would be broadly to the north of the rear of No 42 and its external patio, there would be no significant loss of natural light due to the proposal.
9. Part of the back garden of No 38 would be partly enclosed by the new sidewall and the proposal would be visible from here and through some of its rear and side windows and doorway. Nevertheless, the proposal would be modest in height and the side and rear elevations of No 38 are set back from the boundary with the site.
10. The new addition would also be visible from the rear patio of No 42 that offers an attractive outdoor seating area and its ground floor rear window, which serves a kitchen and living room and is close to the shared boundary with the site. Even so, the eaves level of the extension alongside this boundary would be modest in height and the pitched roof would slope upwards, away from view. The main direction of outlook from the patio and kitchen window, across the back garden of No 42, would not be significantly affected.
11. The proposal would be close to and clearly visible from the rears of these adjacent properties. However, neither its scale, height nor depth would be so great as to result in an appreciable loss of light, overbear, dominate outlook or unduly heighten a sense of enclosure. Hence the living conditions of the occupiers of Nos 38 and 42 would not be materially reduced.
12. Some interested parties raise concern that the appeal scheme would breach the '45-degree rule', which is a line drawn at this angle from the nearest window of an adjacent property. Given my findings on the main issue, which is based on all the submitted evidence and my observations 'on the ground', I find that the proposal would not conflict with the main purpose of applying this guideline, which is to safeguard residential amenity. Therefore, a breach of the 45-degree rule in this instance, if it were to occur, is insufficient reason to refuse planning permission.
13. Against that background, the proposal does not conflict with Policy DM9 of the Epping Forest District Local Plan 2011-2033 (Part One) or the Framework 2024 insofar as they aim to protect residential amenity.
14. In reaching this conclusion, I note that planning permission has been granted for an extension at the rear of No 38 that was not in place at the time of the site visit. My findings would not alter if this neighbouring extension were to come forward.
15. I share the Case Officer's view that the proposal would not look out of place among the varied built form that generally characterises the rears of properties along Woburn Avenue. While the host building has been extended and includes a sizeable rear dormer, the proposal would still be a proportionate addition to the existing dwelling. It would not constitute over development of the plot.

16. There is understandable concern that the construction phase of the development would cause unacceptable levels of noise, dust and general disturbance to the occupiers of nearby properties. While I have some sympathy for these concerns, they are insufficient reason to withhold planning permission in this instance.

Conditions

17. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty. To ensure the satisfactory appearance of the development, a condition is imposed to require the use of external materials that match those of the existing dwelling, as proposed.

Conclusion

18. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be allowed.

Gary Deane

INSPECTOR

Schedule of 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: Refs 40CM167JR/P/24/001 and 40CM167JR/P/24/002 Revision A.
- 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.