



Appeal Decision

Site visit made on 14 April 2025

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2025

Appeal Ref: APP/U5930/W/25/3359111

First Floor Flat 2, 38 Mornington Road, Leytonstone, Waltham Forest E11 3BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Felicity Cannell against the Council of the London Borough of Waltham Forest.
 - The application Ref is 241323.
 - The development proposed is a loft extension.
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Decision

1. The appeal is allowed and planning permission is granted for a loft extension at First Floor Flat 2, 38 Mornington Road, Leytonstone, Waltham Forest E11 3BG in accordance with the terms of the application, Ref 241323, 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: 24-0897 Rev 05 - Pages D01, D02, D03, D04, D05, D06 and D07.
 - 3) The rooflights hereby permitted shall not protrude more than 150mm from the roofslope.

Procedural Matters and Background

2. Section 78 of the 1990 Act provides that an applicant may appeal if the Council has not given notice of its decision on a planning application within the statutory period (or within an extended period if agreed in writing).
3. As part of the appeal documentation, the Council has provided me with an officer report, and a draft decision notice dated 2 October 2024, in which it states that it would have granted planning permission subject to conditions. In identifying the main issues in this appeal, I have had regard to those documents, and to representations that were made by a neighbouring resident.
4. I observed on my visit that alterations are being carried out to the property, which has been subject to three previous refusals of planning permission; and I understand that there is an ongoing enforcement investigation. Notwithstanding the second floor extension which has been partially constructed above the host's two storey rear outrigger, and which I understand does not have planning

permission, I have assessed the scheme on the basis of those versions of drawing nos 24-0897 Rev 05 Pages D03, D05 and D07, which depict a loft conversion with a rear dormer and front facing rooflights, resulting in a two bedroom flat. Despite their description as 'existing' plans, those drawings do not fully reflect the loft extension as partially constructed. Consequently, notwithstanding the appellant's description of the scheme as the 'partial retention' of a loft conversion, I have dealt with the appeal as a proposal.

Main Issues

5. The main issues are the effect of the proposed development on:
- the living conditions in the ground floor flat at 36 Mornington Road ('No 36'); and
 - the character and appearance of the host property and the area.

Reasons

Living conditions

6. As depicted on drawing nos. 24-0897 Rev 05 Pages D03 and D05, the proposed loft extension would include a rear dormer with two windows. One of those would be next to the landing, and the other would serve a small bathroom. A landing is not a space where residents would generally spend any length of time, and that window would, in any event, face principally towards the host's own garden. Thus, views from it towards No 36's backyard would be fleeting and at an angle.
7. Whilst the bathroom window would be larger and closer to No 36, it would serve a space where occupants typically seek to protect their own privacy, as opposed to a habitable area where they would dwell to enjoy an outlook.
8. For these reasons, the scheme would not result in a significant loss of privacy at, or overlooking of, No 36, and it would not harmfully affect those occupants' living conditions. Consequently, on this issue, it would not conflict with Waltham Forest Local Plan Part 1 (2024) ('WFLP'), including its Policies 53 and 57, which require high quality design that respects the amenity of existing and future occupiers, with regard to matters including overlooking and loss of privacy.

Character and appearance

9. I observed that there are existing rear dormers near to this site on Mornington Road, some of which are referred to in the appellant's statement, along with others on Barfield Road. Thus, whilst concerns have been expressed that there is an over-concentration of conversions in the area, in my view dormer windows form part of its established character.
10. The proposed dormer would be set up from the host's eaves and down from its ridge, and it would be faced with hanging tiles to match the existing roof. As a result, it would assimilate appropriately with the host and it would not appear out of place. It would not therefore harm the character or appearance of the host property or the area; and it would not conflict with the WFLP, including its Policy 53, nor with the similar requirement for good design in Policies D1 and D4 of the London Plan 2021; or with the thrust of the advice at part 5.2.4 of the Waltham Forest Residential Extensions and Alterations Supplementary Planning Document 2010.

Other matters

11. Whilst I have considered representations regarding the property's planning history, its occupancy and maintenance, and unauthorised works, I have dealt with the scheme before me on its planning merits. Neither the description of the proposal, nor the submitted drawings, refer to the creation of two separate dwellings, and the drawings now depict that it would have a single boiler. In any event, the creation of an additional unit of accommodation would require a further application for planning permission.
12. As part of the appeal, the Council confirmed that, although the site is within the zone of influence of the Epping Forest Special Area of Conservation ('SAC'), as it is not within 400 metres of the SAC, no mitigation measures to address adverse effects on its integrity are required.
13. Given the site's location close to public transport, including Leytonstone station, and that the scheme would result in one additional bedroom in an existing property, I am not persuaded that off-street parking is required. Typical occupancy of this residential accommodation would not give rise to undue noise and disturbance, or light pollution.
14. Finally, given that the scheme relates to an existing property, I have no cogent reason to doubt that there will be appropriate arrangements for dealing with any additional foul sewage; and party wall agreements are dealt with under separate legislation contained in the Party Wall etc Act 1996.

Conditions and Conclusion

15. Turning to the matter of conditions, I have imposed the standard time limit for commencement, and a requirement that the development be carried out in accordance with the approved plans. As those plans detail the proposed facing materials, a separate condition addressing that matter is unnecessary.
16. Finally, in the interests of the character and appearance of the host property and the area, I agree with the Council that a condition is necessary requiring that the permitted rooflights shall not protrude more than 150mm above the host's roof.
17. Subject to those conditions, for the above reasons, and having regard to all other matters raised, the appeal is allowed, and planning permission is granted.

Chris Couper

INSPECTOR