

Appeal Decision

Site visit made on 22 September 2016

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 October 2016

Appeal Ref: APP/H5390/D/16/3153545
2 Linver Road, London, SW6 3RB

- 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 Humfrey Fisher against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2016/00590/FUL, dated 27 January 2016, was refused by notice dated 12 April 2016.
 - The development proposed is the erection of rear extension at second floor level, on top of existing back addition; installation of dormer window in front roofslope, including alterations to side elevation at roof level to form a vertical flank wall; replacement of existing rear conservatory at first floor level with brick built structure; replacement of a mono-pitched roof with flat roof to existing extension at ground floor level; excavation of the front and rear gardens to form lightwells in connection with the creation of a new basement.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of rear extension at second floor level, on top of existing back addition; installation of dormer window in front roofslope, including alterations to side elevation at roof level to form a vertical flank wall; replacement of existing rear conservatory at first floor level with brick built structure; replacement of a mono-pitched roof with flat roof to existing extension at ground floor level; excavation of the front and rear gardens to form lightwells in connection with the creation of a new basement at 2 Linver Road, London, SW6 3RB in accordance with the terms of the application, Ref 2016/00590/FUL, dated 27 January 2016, subject to the conditions on the attached schedule.

Procedural Matters

2. I use the Council's description of development which is more precise than the planning application form.
 3. Extension and alteration works were underway at the time of my visit; this does not alter my approach to determining the merits of the proposal.
 4. The Council's reasons for refusal relate specifically to the proposed excavation of the basement under the rear garden area. There is no dispute between the parties as to the acceptability of the other elements of the proposal and indeed there is an extant planning permission for these (12 April 2016 Ref: 2016/00589/FUL). I am satisfied that these other elements would cause no material harm, and would not conflict with any policy provisions to which reference has been made. I shall therefore confine my detailed considerations
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to the proposed rear basement extension which would run under the whole of the rear garden area.

5. One of the Council's two reasons for refusal related to flood risk potentially stemming from groundwater flows and/or reduced infiltration capacity. The rear element of the basement under construction has been lowered from the scheme shown on the Council's determined plans with the intention that a metre of top soil be placed over the structure. Plans have been submitted during the course of the appeal to show this and these have been made available to the Council. The Council has very reasonably agreed that such an approach would be better in infiltration terms than the previously proposed scheme and that top soil with soft landscape would similarly have advantages over the existing hard standing situation. The Council also notes that the groundwater flow issue would be covered by the Appellant's commitment to integrate a gravity drain membrane and sump/pump system as part of the basement construction works which would manage groundwater. In my opinion consideration of the amended plans would not prejudice any local resident or consultee or the Council and consequently I will base my determination on these drawings referenced: P-01C, P-02C, P-03C and P-04C.
6. Bearing in mind the Council's latest response on the issue of flood risk and my own reading of the situation my conclusion on this matter is that there would be no unacceptable adverse effects from the scheme in relation to flood risk. I would conclude that there would not be conflict in this regard with the following: Policy CC2 of the Core Strategy 2011 (CS), Policy DM H3 and DM A8 of the Development Management Local Plan 2013 (LP), and SPD Housing Policy 9 and SPD Sustainability Policy 1 of the Planning Guidance Supplementary Planning Document 2013 (SPD) insofar as they are concerned with this matter.

Main Issue

7. Given the foregoing the main issue is whether the rear basement would be overdevelopment resulting in unacceptable impact on the character of the appeal property and the wider area of which it forms part, along with the potential precedent effect of allowing planning permission and the effect on biodiversity.

Reasons

8. The appeal property is a two storey mid terrace single family dwelling house with a mansard roof extension. The property has a rear garden which is 4.7 metres wide by 4.3 metres long.
9. Policy DM A8 of the LP indicates that new basement accommodation will be permitted where it does not extend beyond the footprint of the existing dwelling, where there is no adverse impact on the amenity of adjoining properties or on the local, natural and historic environment. In this case, the appeal proposal is for extension of the basement under the very modest back yard. The basement, even with its planned one metre of top soil beyond the lightwell may limit the potential for planting of larger trees. However the tight knit nature of the surrounds would not lend themselves to this in any event and the garden area was previously hardsurfaced. There would be no loss of soft landscaping and with the new topsoil the scope would exist for some reasonable sized shrubs and other planting to take place. The basement would

hardly be visible from above and it would have no discernible effect on the character and appearance of the local area.

10. The reasons for refusal include that the development would result in overdevelopment of the site. On completion of the approved development scheme, planning permission Ref: 2016/00589/FUL, the appeal property will have been altered and extended considerably; the proposed rear element of the basement would be very small in relation to the overall size of the habitable space of the property. I would not describe this element as being overdevelopment in this immediate context and it would not appear so in the wider area.
11. LP Policy DM A8 does not preclude the creation of basement accommodation beyond the footprints of dwellings and the proposal would not be contrary to the aims of protecting the amenity and local, natural and historic environment sought by the policy. Therefore, I conclude that the development would accord with LP Policy DM AB.
12. LP Policy DM G3 and CS Policy BE1 require a high standard of design for development generally and alterations and extensions in particular. I am satisfied that the basement works would accord with this requirement in terms of a benign built form and improved soft landscape potential.
13. SPD Policy 13 indicates that creation of basement accommodation beyond the footprint of the property will generally be resisted. However, as noted above the appeal proposal would not result in loss of any soft landscaping or tree planting. The proposed basement extension would not affect the street scene and it would accord with the objectives of SPD Policies 9 and 13 in these respects. The biodiversity value of the garden would be enhanced by the development as a result of importation of new top soil and subsequent scope for new planting.
14. Overall and given the particular circumstances of this proposal, I do not consider that there is a sustainable case for refusing planning permission on the basis of the precedent it might set for similar development. Each case would in any event have to be determined on its own merits.
15. In summary I conclude that the rear basement would not be overdevelopment resulting in unacceptable impact on the character of the appeal property and the wider area of which it forms part, that there would not be a precedent effect of allowing planning permission, and that there would be no adverse effect on biodiversity

Conditions

16. I have considered the imposition of conditions in the light of advice in Planning Guidance. The works have already commenced, however, for certainty I have attached a condition which imposes compliance with the approved listed plans. Some of the conditions suggested by the Council are unnecessary in the light of this condition as they would have duplicated what is specified on the approved plans. Furthermore a number of restrictions via conditions sought by the Council would in their own right require planning permission - such as further extensions, a number of alterations and the creation of a self contained flat or HMO in any part of the appeal property.

17. In the interests of visual amenity conditions are necessary in respect of use of stock brick in specified areas, restrictions on external services, materials for basement windows and the grille for the front lightwell. In the interests of residential amenity conditions are necessary relating to restriction on use of some of the roof area and on the nature of side fenestration at second floor level.

Overall conclusion

18. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

D Cramond

INSPECTOR

SCHEDULE OF CONDITIONS (8):

1. The development hereby permitted shall be carried out in accordance with the following approved plans: P-01C, P-02C, P-03C and P-04C.
2. The flank / party walls of the altered main roof, the extension on top of the back addition, the side and rear elevations of the first floor extension and altered ground floor extension hereby approved shall be erected in stock brick to match the existing building.
3. No plumbing, extract flues or pipes, other than rainwater pipes, may be fixed on the front elevation of the building.
4. No water tanks, water tank enclosures or other structures shall be erected upon the flat roofs of the extensions hereby permitted.
5. The balustrade in front of the French doors at second floor level shall be fixed shut with the rear elevation of the extension and permanently retained. No alterations shall be carried out to the remainder of the roof of the back addition or to the roof of the altered ground floor extension hereby approved to facilitate its conversion to use, all or in part, as a terrace or other amenity space. No railings or other means of enclosure shall be erected around the roof and no alterations shall be carried out to the rear elevation of the application property to form an access onto the roof.
6. The new openings in the front elevation at basement level hereby approved shall be of materials to match the existing windows above.
7. No part of the extended basement shall be occupied or used until the proposed metal grille is installed over the approved front lightwell, and the grille shall be permanently retained in place. At no time shall railings or any other vertical element be constructed around the lightwell.
8. The development hereby permitted shall not be occupied until the new window to the side elevation of the extension at second floor level has been installed fixed shut with obscure glazing up to a height of 1.7 meters, a sample of which shall have been submitted to and approved in writing by the Council prior to any development on site. Thereafter the window shall be retained in the form approved.