

Appeal Decision

Site visit made on 2 November 2016

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 15th November 2016

Appeal Ref: APP/U5360/W/16/3153854

89 and 91 Osbaldeston Road, London N16 6NP

- 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 Gross and Mr Sternlicht against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2016/0506, dated 9 February 2016, was refused by notice dated 18 April 2016.
 - The development proposed was originally described as 'Three storey rear extension and rear dormer to 89 and 91 Osbaldeston Road.'
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Notwithstanding the description of development set out above, which is taken from the application form, it is evident from the submitted plans that the appeal proposal also includes the erection of a part single storey extension and two dormer windows to the rear.
3. The Council's decision notice describes the proposed development as 'Joint application for the erection of a part single-storey, part three-storey rear extension and two dormer windows to the rear slope', and I note that the appellants have used this description on the appeal form.
4. This revised description more accurately describes the proposed development, and I have therefore considered the appeal on that basis since neither of the parties would be prejudiced or caused any injustice by me taking this course of action.

Main Issues

5. The main issues are the effect of the proposed development upon:
 - a) The character and appearance of the appeal properties and the surrounding area; and
 - b) The amenity value and health of adjacent trees.
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Reasons

Character and appearance

6. The appeal properties are a pair of terraced dwellings located on the west side of Osbaldeston Road, within the Northwold and Cazenove Conservation Area (the Conservation Area).
7. The Conservation Area is characterised by the predominant pattern of Victorian residential development. The uniform building lines, consistent roof forms, strong repeating pattern of architectural features such as bay windows and a restrained palette of materials gives the Conservation Area a unified character and appearance.
8. To the rear, the appeal properties share a flat roofed link feature which projects slightly beyond the main rear elevations and terminates just above the eaves line. This link feature is common to all the properties along this section of Osbaldeston Road. There are no upper floor rear extensions along the terrace, although there are examples in the surrounding area.
9. It is proposed that the existing link feature would be increased in both height and projection in order to accommodate additional bedrooms on the upper floors of the appeal properties. At ground floor level a larger single storey extension would wrap around the upper floor extension, providing kitchens which would open into the dining rooms. A dormer window would be inserted into the rear roof slope of both appeal properties.
10. I observed during my site visit that the rear of the appeal properties is visible from Filey Avenue. The upper floors of the proposed rear extension would therefore be evident in public views from the Conservation Area. Furthermore, the proposal would be seen from the back gardens of neighbouring properties on Osbaldeston Road and the rear of properties on Oldhill Street.
11. The proposed position of the extension to the upper floors, linking the two properties, would reflect the siting of the small existing link feature. However, the rear extension would be a substantial addition to the appeal properties, rising higher above the eaves line than the existing modest link and projecting considerably beyond the rear building line. The placement and proportions of the windows in the proposed extension and at ground floor level on the main rear elevations would fail to reflect the existing fenestration.
12. The proposed dormer windows would be modest in scale and their design and siting would reflect the proportions and architectural composition of the appeal properties and neighbouring development. I note that the Council has raised no objection to this element of the appeal proposal. However, the dormers form an integral part of the overall scheme and therefore the two elements of the appeal proposal are not severable.
13. Details and samples of materials could be secured by condition, and I have no evidence that a good match with existing materials could not be achieved.
14. Overall however, by reason of the height and depth of the proposed rear extension and the detailed design of the proposed fenestration, the appeal proposal would create an overly dominant, bulky and discordant feature which would fail to respect the existing architectural rhythm, proportions and form of the appeal properties and the terrace.

15. I note the submission of revised plans in appendix 1 of the appellants' appeal statement, which seek to correct a discrepancy in relation to the depth of the proposed ground floor extension. However, the revisions do not alter the scheme in any significant way and do not overcome the harm set out above.
16. My attention has been drawn to the steps leading down into the garden from the upper flat at 91 Osbaldeston Road, and to the single storey rear extension at 87 Osbaldeston Road. These structures are considerably lower than the proposed extension would be, and their effect upon the character and appearance of the terrace and the surrounding area is therefore not directly comparable to the appeal proposal.
17. For the reasons given above, the proposed development would have a harmful effect upon the character and appearance of the appeal properties and the surrounding area, and would fail to preserve or enhance the character and appearance of the Northwold and Cazenove Conservation Area. As such, the appeal proposal would not accord with the design and heritage conservation and enhancement aims of Policies 24 and 25 of the Hackney Core Strategy Development Plan Document, Policies DM1 and DM28 of the Hackney Development Management Local Plan (DMLP) and Policies 7.4, 7.6 and 7.8 of the London Plan.
18. I note that the Council's Supplementary Planning Document Residential Extensions and Alterations (SPD) pre-dates the development plan and the National Planning Policy Framework (the Framework). Notwithstanding this, the general thrust of the SPD does not conflict with local and national planning policy, and I have therefore had regard to the document as a material consideration. The proposed rear extension would fail to respect the character and size of the appeal properties, contrary to the design principles set out in the SPD.
19. In addition to the development plan policies and guidance referred to above, I have had regard to the presumption in favour of sustainable development and the policy aims in respect of design set out in the Framework.
20. The appeal proposal would enlarge the existing properties thereby meeting the appellants' needs for family accommodation in the local area. The principles of creating inclusive and mixed communities and delivering a mix of housing which caters for the needs of different groups in the community are supported by the Framework. However, for the reasons set out above, the proposed development would not constitute good design, promote or reinforce local distinctiveness or sustain and enhance the significance of the heritage asset, as specifically required by paragraphs 56, 60 and 131 of the Framework.
21. As a result, the appeal proposal would fail to protect and enhance the built environment as required by the environmental role set out in paragraph 7 of the Framework. The three dimensions of sustainable development are mutually dependent, and I consider that the conflict with the environmental dimension would outweigh any positive contributions the appeal proposal would make towards the social and economic dimensions through the provision of additional living accommodation and the short term employment generated during the construction phase. As such, the proposal would not constitute sustainable development when assessed against the policies contained within the Framework as a whole.

22. I conclude that the harm to the significance of the Conservation Area which I have identified above would be less than substantial. Paragraph 134 of the Framework states that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. I do not consider that the provision of additional living accommodation within the appeal properties would amount to a public benefit sufficient to outweigh the harm that would be caused to the heritage asset.

Trees

23. There are trees within and near the appeal site. The Council considered that insufficient information was submitted with the planning application to enable an assessment of the effect of the proposed development upon these trees.
24. A tree report has been submitted with the appeal. This report identifies that the likely incursion of the proposed development into the root protection area of the plane tree located at the end of the site would be less than 2%. As such, the appeal proposal would be unlikely to have a harmful effect upon the health of that tree. The crown of a willow in the neighbouring garden intrudes into the appeal site. However, a modest crown reduction would allow sufficient clearance of the proposed extension. The submitted report demonstrates that no other trees would be affected by the appeal proposal.
25. For the reasons set out above, the proposed development would not have a harmful effect upon the amenity value and health of adjacent trees. As such, the appeal proposal would accord with the landscape protection aims of Policy 7.21 of the London Plan and Policy DM35 of the DMLP.

Other matters

26. I recognise that the appellants collaborated on the proposed scheme in an effort to overcome the potential harm to neighbours' living conditions. I note that this matter did not form part of the Council's reasons for refusal and, because I have found harm in respect of the first main issue, I have not addressed it further.

Conclusion

27. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

C L Humphrey

INSPECTOR