
Appeal Decision

Site visit made on 16 May 2017

by C J Ford BA (Hons) BTP Dist. MRTPI

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 12 June 2017

Appeal Ref: APP/Y5420/D/17/3172108
2 Hornsey Lane Gardens, London N6 5PB

- 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 Jon Curtis (IDM Properties) against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2016/4121, dated 16 December 2016, was refused by notice dated 10 February 2017.
 - The development proposed is extension of existing lower ground floor basement below rear garden including formation of lightwell and 1 no. roof light.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are:
 - i. Whether the proposed development would provide acceptable living conditions for future occupiers of the property with particular regard to daylight and outlook.
 - ii. The effect of the proposed development on the character and appearance of the host property and the surrounding area.
 - iii. The effect of the proposed development on nearby trees.

Reasons

Living conditions

3. The appeal site is an end of terrace property. It has previously been enlarged by way of roof extensions, a side extension and a basement garage at the front of the property which has a small level of utility and home office space located behind.
4. The proposal is for a basement family room that would extend from the existing lower ground floor to the end of the rear garden. It would have a large floor area of 97.8sqm and be just over 16m in length. To put its substantial length into a meaningful context, it is comparable to the distance between the front bay window and the rear wall of the house at the upper ground floor level.
5. The only natural light to this long and expansive space would be from a lightwell located up against the side boundary and a roof light located towards

the end of the garden. The light in respect of the former would be restricted by the adjacent high boundary wall and a tree located outside of the site. The latter would be restricted by its opaque glazing. The outlook would similarly be very poor and it would largely be limited to a potential glimpsed view of the sky from the lightwell.

6. As a consequence, the proposed family room would have an oppressive, dungeon-like atmosphere. It is acknowledged the appellant intends to use the extension as additional indoor recreation space and he considers the design is suitable for his needs. Nevertheless, future occupiers may seek to use the living space in a different and more intensive manner. The enhanced amenity in terms of additional internal space at the property does not justify a development which has inadequate levels of natural light and outlook.
7. It is therefore concluded that the proposed development fails to provide acceptable living conditions for future occupiers of the property with particular regard to daylight and outlook. The development would conflict with Policy 7.6 of the London Plan 2016, Policy UD3 of the Council's Unitary Development Plan 2006 (UDP) and Policy SP11 of the Council's Local Plan 2013 (LP). Amongst other things, these policies expect developments to be of the highest quality design.
8. It would also conflict with Policy DM1 of the Council's emerging Development Management DPD 2016 (DPD). This policy is more detailed in setting out that high quality design includes providing a high standard of amenity for the users of a development. It notes the Council will support proposals that provide appropriate daylight and open aspects to all parts of a development.
9. The Council's reason for refusal also referred to Policy 3.5 of the London Plan, Policy SP2 of the LP and Policy DM16 of the DPD. However, the first two policies appear to relate to the provision of new housing whilst the third concerns residential conversions.

Character and appearance

10. The appeal site is located within the Highgate Conservation Area (CA). In determining the appeal it is therefore necessary to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The National Planning Policy Framework also sets out that conservation areas are designated heritage assets and that great weight should be given to the asset's conservation.
11. As the proposed development is subterranean, the only external changes derive from the proposed lightwell and roof light. The lightwell would be hidden from view by the adjoining high boundary wall. Owing to the height of the boundary treatment, there would be no public views of the roof light and private views would be limited to a restricted oblique view from the first floor of the neighbouring property. There would be a glow emanating from the roof light at night but its effect on the wider area would be little different from that of low level lighting that can reasonably be expected in a private rear garden area.
12. The Council considers the proposal would represent overdevelopment by reason of excessive site coverage. However, the development proposes to reinstate and maintain the existing extent of the rear amenity garden area. The

roof light itself would only occupy a relatively small proportion of this space. The development would therefore not appear as overdevelopment of the site.

13. Accordingly, it is concluded the proposed development would not have an unacceptably harmful effect on the character and appearance of the host property and the area. It would preserve the character and appearance of the CA. In these respects the development would not conflict with Policy SP11 of the LP or Policy UD3 of the UDP. Amongst other things, these policies expect developments to respect the local context and character and be of a nature and scale that is sensitive to the surrounding area.
14. The Council's reason for refusal also referred to Policies 3.4 and 3.5 of the London Plan. However, these policies appear to relate to the provision of new housing and housing densities.

Trees

15. The Council's concern in this respect related to a lack of information provided at the application stage, namely an arboricultural report outlining how the development would avoid damage to the trees that are located a short distance outside the site boundary.
16. The appellant has subsequently provided an Arboricultural and Planning Impact Assessment Report. Its findings are that refusal of the scheme on the basis of a detrimental impact to the trees is not warranted but appropriate tree protection measures are necessary. It recommends a condition which requires an Arboricultural Method Statement to be submitted to and approved by the Council which provides full details of tree protection measures. The conclusions of the report are accepted. Subject to the imposition of a condition of the nature suggested, the development would not have an unacceptably harmful effect on nearby trees and it would not conflict with Policies UD3 or OS17 of the UDP. Amongst other things, these policies seek to protect the contribution of trees to local landscape character.

Other matters

17. The representations from third parties both objecting to and supporting the proposal are acknowledged. Nevertheless, as they do not affect the conclusion on the first main issue which is determinative in this appeal, they are not considered further.

Conclusion

18. Notwithstanding the findings on character and appearance and trees, the identified harm in respect of living conditions is an overriding consideration. For the reasons given above and having regard to all other matters raised, the appeal is dismissed.

C J Ford

APPOINTED PERSON