



Appeal Decision

Site visit made on 4 July 2017

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 21 July 2017

Appeal Ref: APP/U5360/D/17/3175642

75 Victoria Park Road, Hackney, London E9 7NA

- 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 & Mrs Grunberg against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2017/0102, dated 10 January 2017, was refused by notice dated 21 March 2017.
 - The development proposed is excavation to front elevation to form light well; demolition of front boundary wall and erection of new brick piers to form access and cross over; landscaping of front garden including new permeable surface.
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Decision

1. The appeal is allowed and planning permission is granted for excavation to front elevation to form light well; demolition of front boundary wall and erection of new brick piers to form access and cross over; landscaping of front garden including new permeable surface at 75 Victoria Park Road, Hackney, London E9 7NA in accordance with the terms of the application, Ref 2017/0102, dated 10 January 2017, 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 shall be carried out in accordance with the following approved plans:
 - 0290-P700: Location Plan
 - 0290-P702: Proposed Front Area and Boundary Wall Elevation
 - 0290-P703: Proposed Front Driveway Plan
 - 0290-P705: Proposed Front Elevation and Light Well Sections
 - 0290-P706: Existing and Proposed Basement Plans
 - 3) The brickwork and capping used in the construction of the new gate piers and reconstruction/ reinstatement of the front boundary wall shall match those in the existing boundary wall and piers.
 - 4) No development shall take place until full details of the proposed bin store and fence to be erected to the eastern boundary of the garden have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the

approved details before any part of the development is first occupied brought into use.

- 5) No development shall take place until measures to ensure the protection of the trees within and immediately adjoining the site have been erected in accordance with details that have been submitted to and approved in writing by the local planning authority. The measures shall comply with BS5837:2005 (Trees in relation to construction - Recommendations) in order to protect the root protection area (RPA) calculated as described in Table 2 of that British Standard. All protective fencing should be 2.4m high and conform to Figure 2 of BS5837:2005.
- 6) All excavations in preparation of foundations and drainage and all works above ground level in the immediate vicinity of the trees shall be carried out by hand in order to identify and confirm the RPA for all of the trees. All subsequent works within the confirmed RPAs shall be carried out in accordance with a Method Statement which has been submitted to and agreed in writing by the local planning authority.

Main Issue

2. The main issue is the effect on highway safety.

Reasons

3. The width of the proposed access would be more than adequate for its intended use and there would be space to turn within the site so that vehicles could access and egress in forward gear. The access layout would be very similar to that of the existing access to No. 79 which is also located between two runs of on-street parking bays. The new cross-over would require the removal of one parking bay to the front of the dwelling but, with that amendment, a driver exiting the site at this point would enjoy the same level of visibility as when exiting via the existing access. As noted in the appellants' highway statement, there would be flexibility for the Council to adjust the layout of the remaining parking bays so as to maximise visibility for users of the proposed access.
4. The access would be a private residential access and it is not unusual in urban areas for such accesses to be located on road frontages with on-street parking. There are examples of similar access along Victoria Park Road. As a private residential access any driver leaving the site would likely be familiar with performing that manoeuvre and could reasonably be expected to proceed with appropriate caution. As Victoria Park Road is a one-way street a driver would only need to look to the left and their ability to see oncoming traffic would be assisted by the fact that this is contained within the central lane of the road because of the on-street parking on both sides. The Highway Assessment demonstrates that the volume of traffic is not excessive and, at the time of my visit, I observed plenty of gaps in the flow of vehicles that would have provided an opportunity to exit the proposed access safely. The speed detection sign on the opposite side of the road showed most vehicles to be observing the 20 MPH limit at a time when there was a free flow of traffic with no queuing in the street.
5. A cyclist approaching the proposed access would be on the other side of the road and would be likely to be seen by a driver as he or she emerges from the site. There would be little risk to pedestrians as they would be able to see the emerging vehicle and would be likely to be seen by the driver. The risk to

users of the access and other road users would be limited and would not justify a refusal of planning permission. The proposed access also needs to be considered in relation to the current access arrangements.

6. The current shared use by 3 large houses of the access to No. 79 Victoria Park Road requires some quite difficult manoeuvring of cars, particularly when other vehicles are parked in front of the adjoining dwellings. The appellant reports the occasional need to reverse out onto the highway for this very reason. When reversing, the combination of the different position of the driver and their need to look over their shoulder would significantly reduce their ability to see oncoming traffic or pedestrians compared to when leaving the site in forward gear. Even an occasional need to perform such a manoeuvre would lead to safety risks that are likely to offset any highway benefits derived from the reduced number of highway crossings that results from this shared use.
7. The appellant's parking survey shows a typical occupancy of 20 to 35% of spaces, with a peak demand of 35% recorded at 1.00 pm on a Tuesday. At my site visit, which was undertaken at a similar time, I saw that the level of on-street parking was below that peak and a large number of spaces were available. The concerns that the loss of one space would put undue pressure on public parking in the area are, therefore, unfounded. I accept that the removal of this space might require a Traffic Regulation Order and changes to street furniture but that does not justify the refusal of planning permission for an otherwise acceptable proposal.
8. The appellants have the use of a garage to the rear but the property has seemingly enjoyed vehicular access at the front via the shared access arrangements for very many years. The proposal would provide a safer and enhanced access to this parking area. The resultant removal of the need for the appellants to drive across the front gardens of the adjacent houses would benefit the occupiers of those two dwellings.
9. Accordingly, I find that there would be no unacceptable effect on highway safety. No conflict would arise with Policy CS6 of the London Borough of Hackney Core Strategy (2010), which seeks that development should not have a negative effect on the transport network. The proposal would comply with Policies DM45, DM46 and DM47 of the Council's Development Management Local Plan which together seek that development does not have a detrimental effect on highway safety and to control the provision of parking. It would also comply with Policy 6.3 of The London Plan (2016) which states that development should not adversely affect safety on the transport network.

Other Matters

10. The Council has raised no objection to the proposed enlargement of the existing light well and I saw nothing on my site visit to suggest that this would cause harm either to the character and appearance of the dwelling or to the living conditions of neighbouring occupiers. The delegated report cites concerns that the creation of a front garden could adversely affect the character and appearance of this locally listed property and the conservation area but these concerns do not form part of the reason for refusal. Given that most of the forecourt is currently an asphalt surfaced and relatively unattractive area the sensitive landscaping proposed would be likely to enhance rather than detract from the building's setting and would cause no harm to the character and appearance of the conservation area. The details of

the proposed bin store and fence to the side boundary of the plot should, however, be approved to ensure that these are of an appropriate quality of design.

11. The appellants' arboricultural report concludes that there would be limited risk to the mature trees within and adjoining the site provided that appropriate protection measures are put in place during the excavation and construction works. Conditions are therefore needed to require both tree protection measures and appropriate methods of working in the vicinity of the protected trees.

Conditions

12. Permission is granted in accordance with the terms of the application but, in the interests of certainty, a condition is needed to tie the permission to the approved plans. To ensure an appropriate quality of development compatible with the site's location in the conservation area a condition is needed to require that materials used in the new brick piers and reconstruction/ reinstatement of the boundary wall match those of the existing wall. For the same reason I have attached a condition which requires approval of the details of the bin store and the fencing proposed to the site boundary with No. 77.
13. The mature trees within and adjoining the site are protected by means of their inclusion within the conservation area but it is important that adequate steps are taken to secure their protection. Accordingly, I have attached conditions requiring tree protection measures and that both careful excavations is carried out to confirm Root Protection Areas (RPA) for the trees and that methods of working for all subsequent works within the RPAs are agreed by the local planning authority.

Conclusion

14. Subject to these planning conditions the proposal is an acceptable form of development that would cause no material harm to highway safety or to the character and appearance of conservation area. Accordingly, I conclude that the appeal should be allowed.

Paul Singleton

INSPECTOR