



Appeal Decision

Site visit made on 8 July 2019

by S A Whitehead LLB (Hons)

an Inspector appointed by the Secretary of State

Decision date: 24th July 2019

Appeal Ref: APP/U5360/D/19/3222570

43 Moresby Road, Hackney, London E5 9LE

- 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 Englander against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2018/3905, dated 24 October 2018, was refused by notice dated 20 December 2018.
 - The development proposed is for alterations to existing first floor rear extension to formalise (part retrospective, part removal); part reduction and part formalisation of the rear two storey infill extension; external alterations to the existing PD roof extension fenestration and removal of existing stairs at rear first floor level.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the documentation that a more concise description of the development proposal is the description provided on the appeal form and on the Council's Planning Decision Notice as 'Alterations to the existing first floor rear extension including a reduction in size, change in external materials and removal of air conditioning units, to formalise the extension and removal of the internal stairs which form an unpermitted roof development to the east of the existing roof extension.' I have considered the appeal accordingly.
3. I have used the address provided on the application form although I note that it is expressed differently on the appeal form. I have also taken the appellant's name from the application form but note a Christian name has been provided in the appeal form.
4. I have had regard to the revised National Planning Policy Framework (NPPF) issued in February 2019 in reaching my decision. In respect of the main issues the revised NPPF has not changed national policy. Consequently, no party has been prejudiced by the revision.

Main Issues

5. The main issues are the effect of the proposed development on:-
 - 1) the character and appearance of the host dwelling and the terrace of which it forms part; and

- 2) the living conditions of the occupiers of No. 41 Moresby Road in terms of daylight/sunlight and outlook.

Reasons

Character and appearance

6. The appeal property is situated on Moresby Road, a pleasant tree-lined street of terraced dwellings that appear to date from the late 19th or early 20th century. Whilst there is some variation in the terraces, their front elevations largely reflect the architectural form of the dwellings as built. From my site inspection, it was also clear to me that many dwellings to the west of the appeal property have been little altered to the rear, either, and still feature original two storey pitch roofed outriggers.
7. The appeal property is, however, one of a number of dwellings in the terrace that have been considerably extended to the rear. Although originally constructed as a two storey property with a basement, I note that the roof of the property has been converted to provide additional bedrooms and that a two storey extension and roof extension, both of which feature flat roofs, have been constructed to the rear, subsuming the original outrigger. Although a number of other properties to the east of the appeal property feature large rear extensions, from my site inspection and from the evidence before me, none appear to equal the scale and rearward projection of those associated with the appeal property.
8. I understand that the first floor element of this two storey extension and part of the roof extension are unauthorised, and are the subject of an enforcement notice. The plans accompanying the appeal proposal depict the removal of the unauthorised roof extension (which accommodates an internal staircase) and propose a first floor extension of reduced scale. Although the extension now proposed would project out to the rear by 2.3m less than the existing unauthorised extension, it would still project out by some 3.0m beyond the rear wall of the pre-existing extension at first floor and would constitute an obtrusive and incongruous addition. Moreover, the combined scale and projection of the proposed extension would, taken together with existing extensions to the dwelling, result in disproportionate additions, having regard to the property's original scale and form.
9. For the above reasons the proposed development would be harmful to the character and appearance of the host dwelling and to the terrace in which it forms a part.
10. I appreciate that the proposed development would provide additional living space, would be constructed with matching materials and would not impact upon the street scene, however these factors do not outweigh the harm I have identified.
11. I appreciate too that some of the charm and character of the original property has already been eroded by the design and proportion of the existing extensions, and similarly so to some of the properties to the east, however this does not justify the further harm that would arise from the proposal.
12. I find that the proposed development, due to its scale, siting, and appearance would conflict with policies 7.4 and 7.6 of The London Plan 2016, policy 24 of the Hackney Core Strategy 2010 and policies DM1 and DM2 of the Hackney

Development Management Local Plan 2015 (DMLP). These policies seek to ensure that all new development is of a high quality design, makes a positive contribution to the character of the area and respects the established scale, massing and rhythm of the existing building and group of buildings of which it forms part.

13. The Council's Supplementary Planning Document Residential Extensions and Alterations 2009 (SPD) advises that extensions should respect the character and size of the original house and be subordinate to the principle building, ie should be at least one storey lower than the eaves height of the building. It further advises that extensions should not dominate or detract from the original building or group of buildings, should be smaller in scale than the original building, and makes the point that the sensitivity to alterations increases with height. I thus find that the proposed development would conflict with the guidance contained in the SPD.

Living conditions

14. Given its proximity, excessive height, massing and projection along the boundary wall, I find that the proposal would adversely impact upon the outlook experienced from the rear facing windows of No. 41 and its garden area. It would constitute an overbearing and oppressive feature increasing the sense of enclosure and would, consequently, significantly detract from the living conditions of the occupiers of this property.
15. With regard to the issue of the loss of sunlight/daylight, it is noted that no detailed sunlight/daylight assessment was submitted as part of the planning application. The Council's conclusion that the extension would likely result in loss of light impact to the rear (south-facing) first floor windows of No. 41 was based upon a desk-based assessment using the '45 degree rule' as set out in the Council's SPD, as explained in the Council's Delegated Report.
16. The appellant's appeal statement includes no sunlight/daylight assessment but references the south-facing orientation of No. 41, and notes that the '45 degree rule' is a guide only, of which I take note. In the absence of any detailed sunlight/daylight assessment or evidence of the application of the '45 degree rule' it is difficult to reach a finding on this matter.
17. Nonetheless, I consider that my findings in relation to outlook are sufficient to determine that the proposal would have a significantly harmful effect on the living conditions of the occupiers of No. 41. It would therefore be contrary to policy DM2 of the DMLP, which seeks to ensure that proposals do not result in a significant adverse impact upon occupiers and neighbours, having regard to matters including outlook. It would similarly be contrary to the guidance contained within the SPD, which seeks to ensure that two storey rear extensions do not appear over dominant when viewed from adjoining properties.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

Sandra Whitehead

INSPECTOR