The Planning Inspectorate

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: 30th July 2019

Appeal Ref: APP/U5360/D/19/3222343
90 Albion Drive, Hackney, London E8 4LY

- 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 Oyibo against the decision of the Council of the London Borough of Hackney.
- The application Ref 2018/3489, dated 25 September 2018, was refused by notice dated 20 November 2018.
- The development proposed is internal alterations, relocation of the front door and steps to fill outside passageway and to match the next door alterations. Remodelling of the existing lower ground floor extension and the addition of a first floor bathroom extension to one side, together with a glazed staircase window ascending a further half storey.

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 the 'Erection of an upper ground floor rear extension and first floor staircase extension, enlargement of front lightwell, relocation of the front door and steps to fill outside passageway, and creation of balustrade around lower ground floor flat roof.' I shall consider 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.

4. I have taken the appellant's name from the application form but note a Christian name has been provided in the appeal form.

5. 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

6. The main issues are the effect of the proposed development on:-

   1) the character and appearance of the host dwelling, the group of buildings of which it forms part and the Graham Road and Mapledene Conservation Area (the Conservation Area); and

   2) the living conditions of the occupiers of neighbouring properties in terms of outlook and privacy.

Reasons

Character and appearance

7. Albion Drive is an attractive tree-lined residential street, situated in the Conservation Area. The majority of the properties are Victorian, and comprise a mix of semi detached and terraced dwellings of two and three storey form. The dwellings are of brick construction, with timber sliding sash windows and, to the front, doors and window surrounds in moulded stucco. The vast majority of properties also feature butterfly roofs, which are concealed in views from the street by brick or moulded parapets, but are exposed to the rear. These features provide the properties with a consistency and uniformity that is an intrinsic part of the character of the area.

8. The appeal property, a three storey semi detached dwelling with a single storey rear extension, shares these common characteristics. It thus makes a positive contribution to the architectural and historical significance of the Conservation Area as a whole.

9. Although the appeal proposal would involve a range of alterations to the dwelling, including alterations to the front and side of the property, I note that the reasons for refusal on the Council's Decision Notice solely focus on concerns relating to alterations proposed to the rear of the property, specifically the erection of an upper ground floor extension and first floor extension. These would accommodate a bathroom and staircase to the first floor, respectively.

10. The existing single storey rear extension is flat roofed and used as a roof terrace, being accessed via a set of French windows from a first floor bedroom. The terrace is paved and bounded by a low wall, and is open to and adjoins the neighbours' roof terrace at No. 88 and the flat roof of a single storey rear extension at No. 92.

11. The proposed upper ground floor extension would be erected on the roof terrace along the side boundary with No. 88. It would be externally clad in timber and flat roofed. I estimate that the extension's footprint would take up slightly less than half of the total area of the roof terrace. The first floor extension would be set in from the side boundary with No. 88 and would be similarly finished in timber and flat roofed.

12. During my site inspection, I was able to view the rear elevation of properties in Albion Drive in both directions. I noted the presence of upper ground floor extensions to Nos. 84 and 92. However, overall, based on my site visit and the evidence before me, upper ground floor and, indeed, first floor rear extensions, are not characteristic of properties in this part of Albion Drive.

13. In this case, the scale and form of the proposed extensions, in particular the depth of the upper ground floor extension and the height of the first floor extension, would overwhelm the host property's rear elevation, constituting unsympathetic and discordant elements that would detract from its simple, unfussy appearance and character.

14. The statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. The proposal would have a negative effect on the significance of the Conservation Area, a designated heritage asset, and would result in "less than substantial" harm in the words of the NPPF. No public benefits have been put forward to weigh against this harm.

15. The appellant has drawn my attention to a number of other developments that have been granted planning permission in the locality, and supplied copies of the relevant planning permissions and related drawings. These include the plans of extensions to Nos. 84 and 92, referenced above. However, the circumstances of each development are likely to be different and I have not been able to gain access to the properties in question to properly appraise the extensions in situ. In any event, I must consider the appeal scheme on its own merits. Accordingly, whilst I have taken note of the extensions to Nos. 92 and 84, together with the other examples submitted in the appellant's Design and Access Statement, these only merit limited weight and do not, in my view, support the introduction of an extension of the scale and form proposed.

16. I have had regard to the content of the appellant's Design and Access Statements. I appreciate that the proposed development would have a positive impact on the standard of accommodation by improving the interior space and optimising the use of natural light. I have also taken account of the fact that the extension would not be visible from Albion Drive to the front, or Shrubland Road. However, these factors do not alter my decision.

17. I find that the proposed development would adversely affect the character and appearance of the host property, the group of buildings of which it forms part and the Conservation Area.

18. The appeal proposal would therefore be contrary to policies 7.4, 7.6 and 7.8 of The London Plan 2016 (LP). These policies seek, amongst other matters, to ensure that new development has regard to the character of the area, is of a high quality design, and conserves the significance of heritage assets. The proposal would also conflict with policies DM1 and DM28 of the Hackney Development Management Local Plan 2015 (DMLP) which require development proposals to respect the scale, massing and rhythm of the building, group of buildings or street scene of which they form part, and to conserve or enhance the character or appearance of the Conservation Area. For the same reasons it would conflict with policies 24 and 25 of the Hackney Local Development Framework Core Strategy 2010 (CS).

19. The Council's first reason for refusal also refers to their Supplementary Planning Document Residential Extensions and Alterations 2009 (SPD). However, in the absence of any evidence indicating why the proposal would be contrary to the guidance set out in this document I find no conflict with it.

Living conditions

20. Taking into account the difference in levels between the terraces of Nos. 88 and 90, I do not consider that the height and depth of the proposed upper ground floor extension, or indeed the proposed first floor extension, would have an overbearing impact upon the living conditions of the occupants of No. 88. The Council also raises concern that the proposal would intensify the use of the roof terrace and harm caused by overlooking. The Council does not seek to argue that the roof terrace cannot lawfully be used, or argue that the proposal would offer views into surrounding properties that do not presently exist. The sole evidence cited regarding its assertion that the proposal would intensify the use of the roof terrace is the inclusion of a balustrade around it as part of the proposal. Mutual overlooking of the neighbouring properties and their gardens already occurs, and I do not find that the appeal proposal would harmfully impact upon the living conditions of these occupiers.

21. For these reasons I find that the proposal would not significantly affect the living conditions of the occupiers of neighbouring properties in terms of outlook and privacy. In this respect the proposal would comply with those policies relating to residential amenity, in particular policies 7.4, 7.6 of the LP, policy DM2 of the DMLP and policy 24 of the CS.

22. The Council's second reason for refusal also refers to the SPD. However, in the absence of any evidence indicating why the proposal would be contrary to the guidance set out in this document I find no conflict with it.

Conclusion

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

Sandra Whitehead

INSPECTOR