



Appeal Decision

Site visit made on 16 December 2019

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2020

Appeal Ref: APP/U5360/W/19/3236998

54 Lordship Park, London N16 5UA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Denciger against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2019/1923, dated 11 March 2019, was refused by notice dated 29 July 2019.
 - The application sought planning permission for the excavation of basement and erection of two-storey rear extension at lower ground and ground floor level; erection of two rear dormer roof extensions, replacement of existing 2 rooflights in front roofslope; creation of front and rear lightwells and provision of new front railings and external alterations. All in connection with extension and conversion of existing property to provide a total of seven self-contained flats (currently authorised as four self contained flats) without complying with a condition attached to planning permission Ref 2017/0394, dated 12 May 2017.
 - The condition in dispute is No 1 which states that: The development hereby permitted shall only be carried out and completed strictly in accordance with the submitted plans hereby approved and any subsequent approval of details.
 - The reason given for the condition is : To ensure that the development hereby permitted is carried out in full accordance with the plans hereby approved.
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Decision

1. The appeal is allowed and planning permission is granted for the excavation of basement and erection of two-storey rear extension at lower ground and ground floor level; erection of two rear dormer roof extensions, replacement of existing 2 rooflights in front roofslope; creation of front and rear lightwells and provision of new front railings and external alterations. All in connection with extension and conversion of existing property to provide a total of seven self-contained flats at 54 Lordship Park, London N16 5UA, dated 11 March 2019, in accordance with the application Ref 2019/1923, without complying with Condition 1 previously imposed on planning permission Ref 2017/0394, dated 12 May 2017 and subject to the conditions in the attached schedule.

Preliminary Matters

2. The application form states that condition 2 attached to planning permission Ref 2017/0394 is sought to be replaced so that the approved plans can be altered. However, condition 2 refers to conservation rooflights in the front roof slope and not the list of approved plans. The approved plans were listed at conditions 1 of this approval (2017/0394). Nevertheless, within this section of

the application form it is also clarified that the application is to amend the approved plans and this intention is clear from the other submissions, despite the wrong condition being quoted. Local residents have responded on the basis of revisions to the approved plans and the Council considered the proposal on this basis as well. I am satisfied, looking at all matters as a whole, that the condition which is sought to be replaced is condition 1 of 2017/0394, which refers to the approved plans, and that parties in the process have responded on this basis. Therefore, no party would be prejudiced by the reference to condition 1 in the heading above.

3. The present proposal seeks to change the approved scheme by adding a rooflight to the second storey roof, the addition of an automatic opening vent to the rear main roof slope and by raising the height of the rear extension and its parapet. The Council has indicated that the first two changes are acceptable and I have found no reason to disagree. The Council refused the proposal because, it is said, that the increased bulk of the rear extension would not be sufficiently subservient to the host building and that it would be visually obtrusive in the street scene, to the detriment of the character and appearance of the host building and this part of the Lordship Park Conservation Area (the CA).
4. During the processing of the appeal I sought clarification on the plans before the Council when they determined the application. I am satisfied, following confirmation from both main parties, that I have the same plans with the same plan numbers before me. These plans include a dimensioned increase in the rear extension of 800mm.
5. I also note that the application form states that the intention of changing the existing condition is to, amongst other matters, amend the plans to raise the ground floor extension parapet height by 600mm. This appears to be at odds with the dimension on the submitted plans. The Council in their press advert and decision notice, and it is assumed in their letter to local residents, describe the effect of the proposed variation would be to increase the height of the rear parapet by 600mm.
6. I note that some representations to the Council refer to the increase in height as 600mm (presumably on the basis of the description) while one local resident refers to the increase in height as 800mm (presumably on the basis of the plans). The Planning Report and also the appellant's appeal statement refer to the proposed increase in height of the rear extension as 600mm, which is not consistent with the 800mm increase shown on the plans upon which the Council determined the application.
7. During the processing of the appeal the appellant has submitted further plans which specifies a 600mm dimension increase in the height of the rear extension and has requested that these plans be considered as alternatives.
8. The Council has responded to this request by commenting that agreeing to these plans would be prejudicial to the interests of third parties who were consulted on the original application and have had no opportunity to comment on the revised drawings.

9. It is open for revised plans to be submitted at the appeal stage for consideration¹, although the 'Procedural Guide – Planning Appeals – England' advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which the views of interested parties were sought.
10. In this case there appears to be an inconsistency between the description of the development and the plans which seem to have proposed different height increases. The revised plans submitted by the appellant would resolve this matter. Furthermore, the height of 600mm proposed for the increase in the height of the rear extension would be a lesser scheme than the 800mm shown on the plans which the Council determined.
11. Taking all these matters into account, I am satisfied that considering the revised plans showing the 600mm increase would not prejudice third parties, in particular because some have already commented on the basis of this height, the supporting submissions from the appellant refer to 600mm, the Council's consideration of the proposal in its Planning Report was on this basis, accepting the plans would resolve the inconsistency between the plans and the description and finally the revised plans are a lesser scheme than the plans upon which the Council made its decision. Consequently, as I am satisfied that there would be no prejudice to any party in this case, I intend to determine the appeal based on the revised plans showing a proposed 600mm increase to the rear extension.
12. At my site visit I noted that works were taking place and that a rear extension was at an advanced stage of construction. I sought the views of the main parties as to the height of the rear extension. Both parties independently measured the extension and there is a disagreement as to the height and, therefore, what plans, if any, the building works conform with. I have, therefore, determined the appeal on the basis of the revised plans and not with reference to the works on site.

Main Issue

13. The main issue is the effect of the proposal, in particular the rear extension, on the character and appearance of the area, including whether the proposal would preserve or enhance the character or appearance of the CA.

Reasons

14. The CA covers the reasonably sizeable, predominantly residential properties that front Lordship Park. Part of the significance of the CA is because it includes many brick buildings that were largely built between the late 1860s and 1880s and which have a consistency of detail and style which produce a very cohesive appearance. The Appraisal² identifies 54 Lordship Park as a positive building within the CA.
15. No 54 is detached from the adjoining 3 storey terrace and visually it appears as a 2 storey building from the front. The side and rear of No 54 are clearly visible from Queen Elizabeth's Walk, as are the rear of some of the adjoining buildings, some of which have substantial rear projections.

¹ Having regard to the principles established in *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37].

² Lordship Park – Proposed Designation as a Conservation Area.

16. The approved plans show various additions to the rear of No 54, including a two storey rear extension which incorporates a lower ground floor. This lower ground floor element is unlikely to be widely apparent in the street scene because of the level of the land. The ground floor section of the extension, part of which would be likely to be visible above any boundary screening, would form a reasonably modest component of the overall rear elevation and would not dominate the building.
17. The revised plan would raise the rear extension compared to the approved scheme and this would allow a consistent internal floor level. The rear addition would still be reasonably low and of acceptable bulk in relation to the other parts of the building. When viewed in general mid-distant street scene views the top of the parapet would still appear below the sill level of the first floor windows. The extension would still remain a reasonably modest component and subservient element of the overall rear elevation with other elements such as the first floor lean-to and the two dormer windows more prominent additions to the building. Furthermore, the proposed rear extension would provide an acceptable design complementing the overall form of the building.
18. The adjoining property, 56 Lordship Park, has quite a tall rear projection that is fairly prominent in some street scene views from Queen Elizabeth's Walk. The proposed extension to No 54, although wider, would not extend as far back, would be substantially lower, and would sit modestly next to the overall form and prominence of the addition to the rear of No 56.
19. I am conscious of the National Planning Policy Framework (the Framework) policy advice that the quality of approved development should not be materially diminished between permission and completion. I am also mindful of the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of any land or buildings in a Conservation Area. In this case, however, for the reasons explained above, the revisions to the rear extension would provide an overall scheme that would be an acceptable and sympathetic development and would preserve the character and appearance of the building, the street scene and the CA. The significance of the CA would not be adversely affected.
20. As I have not found harm to the character and appearance of the CA and its significance, there is no need to weigh the public benefits of the proposal against any harm to the heritage asset.
21. In the light of the above analysis, I conclude that the scheme would preserve the character and appearance of the building, the area and the CA as a whole. The proposal would therefore comply with policies 7.4 and 7.8 of The London Plan (2016), Policies 24 and 25 of the Hackney Core Strategy (2010), Policies DM1 and DM28 of the Hackney Development Management Local Plan (2015) and the approach set out in the adopted Supplementary Planning Document: Residential Extensions and Alterations (2009) which seek, amongst other things, that development makes a positive contribution to the character of Hackney's historic and built environment.

Other Matters

22. I have taken into account all the objections including those raised by local residents and the Stoke Newington Conservation Area Advisory Committee. In respect of overlooking and impacts on the amenity of neighbours, the Council

did not raise this as a concern with the present proposal and I have found no reason to disagree. Concerns with regard to other variations and amendments, the nature of the build process and planning procedures are all noted. However, I have considered this proposal on its merits based on the information before me and my analysis following my site visit.

Conditions

23. The effect of an approval under s73 is to grant a new planning permission. The Council has suggested conditions if I was minded to allow the appeal and I have considered them in the light of the advice in the Planning Practice Guidance. The works have commenced and therefore the statutory time limit is not necessary. A condition listing the approved plans is necessary in the interests of certainty. A condition specifying flush, conservation style rooflights to the front roof plane is necessary in the interests of the character and appearance of the CA.
24. A condition to ensure that the roof of the rear extension is not used as a balcony or terrace is necessary to protect neighbouring amenity. I have removed the reference to single storey from the recommended condition in the interests of accuracy because the rear extension also has a lower ground floor. A condition regarding the green roof is necessary in the interests of wildlife and urban drainage.
25. A condition requiring the installation and retention of the bin enclosures is necessary in terms of the appearance and amenities of the site and the provision of the cycle store is necessary in the interests of sustainable transport provision.

Conclusion

26. Having regard to the above, and taking all other matters into account, I conclude that the appeal should be allowed.

David Wyborn

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the approved plans:

54LP_00_003 Rev PL (Proposed Block Plan),
1841-NMA-00-00-SK-A-00300 Rev P3 (Section A-A),
1841-NMA-00-00-DR-A-00203 Rev P5 (West Elevation),
1841-NMA-00-00-DR-A-00201 Rev P1 (East Elevation) and
1841-NMA-00-00-DR-A-00200 Rev P5 (South Elevation).

- 2) The front rooflights shall be 'Conservation Style', flush with the roof plane.
- 3) The roof of the rear extension hereby approved shall not be used as a balcony or terrace area.
- 4) The bio-diverse green roof shown on the plans hereby approved shall carry a minimum substrate depth of 80mm. The development shall not be carried out otherwise than in accordance with the approved details.
- 5) The dustbin recycling enclosures shall be installed prior to the first occupation of the residential units hereby approved, in accordance with the following details (approved under Approval of Details application reference 2016/0756) - 54QEW_30_100 (Elevations), 54QEW_30_100 (Plans) and Email from Jacob Weiner dated 9th May 2016 Re: FW: Planning Application for 54 Lordship Park Hackney London N16 5UA (2016/0756); and shall thereafter be retained in perpetuity.
- 6) The cycle storage shall be installed prior to the first occupation of the residential units hereby approved, in accordance with the following details (approved under Approval of Details application reference 2016/0756) - 54QEW_30_100 (Elevations), 54QEW_30_100 (Plans); and shall thereafter be retained in perpetuity.

End of schedule