



Appeal Decision

Site Visit made on 19 January 2021

by Mr I A Dyer BSc(Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 27 January 2021

Appeal Ref: APP/Y5420/D/20/3258098

30 Woodland Rise, Hornsey, London N10 3UG

- 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 B Shelton against the decision of London Borough of Haringey.
 - The application Ref HGY/2020/0949, dated 9 April 2020, was refused by notice dated 4 June 2020.
 - The development proposed is described as "Enlarge existing basement to create new basement area under existing house. Creation of new front light well and rear light well. Creation of garage to front as part of basement works".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of my site visit the site was undergoing extensive building works and a hoarding was in place on the road frontage. However I was able to assess the relevant parts of the site and its frontage and, on this basis, I do not consider that any party would be disadvantaged by my determination of the appeal on the basis of the evidence before me and the constraints of the site visit.

Main Issues

3. The main issues are:-
 - Whether safe and suitable access to the site can be achieved for all users, and: -
 - The effect of the development upon the character and appearance of the area with particular reference to the street tree on the frontage of 30 Woodland Rise.

Reasons

Access

4. The appeal site is a mid-terrace two storey house with a basement set back behind a modest front garden and fronting onto Woodland Rise, an urban street of predominated by dwellings of similar style and appearance. Woodland Rise is a traditional residential street, subject to a 20 MPH speed limit, with footways on both sides. There is unrestricted parking on both sides of the street, including across the frontage of the appeal property

5. The proposal would enlarge the existing basement, providing a garage within the additional accommodation, accessed by a drive falling towards the dwelling. During my site visit I observed several other properties in Woodland Rise that had similar access arrangements.
6. The proposal would introduce a new vehicular crossing of the footway on this frontage. The appeal drawings indicate a proposed pedestrian visibility splay of two metres measured from the back of the footway to the kerbline. This would be of limited benefit to the safety of pedestrians as there are substantial areas of footway close to the access that lie outside of the visibility splay, where, for instance, a small child could not be seen by an emerging driver.
7. I note that the Local Highway Authority (LHA) have requested that a visibility splay be provided to either side of the proposed vehicle crossing of the footway measuring 1.5 metres at a setback of 1.5 metres from the back of footway. On the plans before me this would be obstructed at the necessary height for the driver of an emerging vehicle to observe a small child. The proposal would therefore result in an increased risk of accident, and therefore injury to pedestrians using the footway. In this case, I consider that such increased risk would constitute material harm to the safety of users of the public highway.
8. There is no evidence before me to demonstrate that amending the front garden layout and the works could achieve the required minimum visibility and so I do not consider that this matter could reasonably be covered by a planning condition.
9. The proposal shows no splays to provide intervisibility between drivers emerging from the proposed crossover and those approaching on the carriageway. A visibility splay of 7.8 metres, measured along the kerbline has been suggested as appropriate.
10. Such visibility is provided at accesses to ensure that emerging and approaching drivers have sufficient warning of each other's presence and intentions to allow safe manoeuvring. The figure quoted would normally be a minimum requirement, rather than an optimum one, and I see nothing within the Council's evidence to demonstrate that they have taken any other approach or that such an approach is inappropriate here.
11. There is nothing to prevent vehicles parking on the street close to the proposed vehicle crossover and such vehicles would be likely to encroach upon the requested visibility splay and I observed such parking on existing accesses nearby. However, an emerging driver would be familiar with the situation and behave accordingly, being likely to edge into the live carriageway cautiously until the driver considers that they are able to pull clear of the access. This would mean that the bonnet of the vehicle would intrude into the carriageway during the egress of the vehicle.
12. Similarly, there are other vehicular access in the vicinity and the behaviour of a competent driver within a residential area would be affected by their presence and the wider residential environment.
13. As Woodland Rise, at this point, is relatively straight, the protruding bonnet of a vehicle would be clearly visible to approaching drivers on the road. I have no substantive evidence before me of a record of personal injury accidents associated with the existing accesses.

14. Bringing these matters together, I find that the proposal would not result in a significant increase in risk of accident between vehicles. However, whilst driver behaviour would be likely to take into account the overall characteristics of the area, including the presence of existing accesses, this is less likely to be the case with vulnerable pedestrian groups. I therefore consider that the proposal would result in a significant additional risk of accident between emerging vehicles and pedestrians in regard to the visibility provision at the proposed access.
15. My attention has been brought by the appellant to other appeal decisions¹. However, I have little evidence before me of their location or their relationships in terms of context to the appeal before me. I have, in any case, determined this appeal on its own merits.
16. I conclude that the proposal would not provide safe and suitable access to the site can be achieved for all users. It would therefore be contrary to the aims of Policies DM2 and DM33 of the Haringey Development Management DPD -2017- (the DPD) which, amongst other things, seek to ensure that proposals can be used safely by all and protect, improve and create safe and accessible pedestrian routes.

Character and appearance

17. The footways of Woodland Rise contain a number of street trees. The trees are not subject to a Tree Preservation Order nor do they fall within a conservation area.
18. Some of the street trees have been planted more recently and have yet to achieve the stature of those that have been longer established. Nevertheless the trees still provide an important contribution to the character and appearance of the area as, when in foliage, the rows of trees provide a greening effect upon the street, and in winter the tree trunks provide visual interest.
19. Loss of the tree outside No 30 would provide a gap in the tree line and as such would significantly reduce the contribution of these trees to the street scene. There is no evidence to suggest that the tree needs to be removed in the interests of good arboricultural practice and for the reasons set out above it is worthy of retention. The tree would be directly in front of the proposed access, obstructing it and so, were I minded to allow the appeal, retention would not be possible.
20. The appellant has offered to provide a new tree. However I do not consider this to be an adequate alternative to retention of the existing healthy tree as no suitable location has been identified to demonstrate that a replacement would be feasible. Furthermore there is no evidence to show that a replacement would have the same impact upon the street scene as that to be removed. A new tree would take time to establish itself and there is no substantive evidence before me that this would be successful. This does not, therefore alter my conclusions above.
21. The creation of a vehicular access to the site would not, of itself require planning permission. However, it would need permission from the LHA. The Council advise that dropping the kerb would not provide a parking space

¹ PINS Refs: APP/G5180/D/14/2224423 and APP/E6840/A/16/3151842

without development and so it is unlikely that such a proposal would proceed. I do not, therefore consider dropping the kerb, of itself, to provide a realistic fallback for the appellant.

22. I therefore conclude that the development would result in harm to the character and appearance of the surrounding area contrary to the provisions of Policy DM1 of the DPD which requires development to contribute to the distinctive character and amenity of the local area, including in response to trees on and close to the site.

Other Matters

23. Since determining the proposal before me the Council have approved a proposal for an enlarged basement on the same site². However that proposal did not include a new vehicular access and so has limited bearing on the matters that are disputed in this appeal. It does not, therefore alter my findings above.
24. The proposal would remove the demand for parking one vehicle from the highway, however, in doing so it would reduce the on-street capacity by sterilising kerb space and remove overall public provision in the area. I consider, therefore that this would have a neutral effect on the amenity of the area.
25. The appellants have provided a draft Unilateral Undertaking (UU) under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended). However, the UU has not been signed or completed. Further the Council have confirmed that the provisions proposed within it are not necessary and so I have not considered the contents of the draft UU in my deliberations.

Conclusion

26. For the reasons given above the appeal is dismissed.

I Dyer

INSPECTOR

² Council Ref: HGY/2020/1418