



Appeal Decision

Site visit made on 27 August 2021

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2021

Appeal Ref: APP/U5360/D/21/3266766

11B Filey Avenue, Hackney, London N16 6JL.

- 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 N Matias against the decision of the London Borough of Hackney Council.
 - The application 2020/3351, dated 5 November 2020, was refused by notice dated 7 January 2021.
 - The development proposed is erection of single storey rear extension to be used as a disabled accessible bathroom.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the period since the appeal was submitted the Government has published a revised version of the National Planning Policy Framework (The Framework). Also since the submission of the appeal the Mayor of London has published the adopted *London Plan 2021* (LP2021). This replaces the *London Plan 2016* which is referred to in the appeal documentation. As an adopted plan I must consider the policies of the LP2021. However, in respect of this appeal, Policy D3 is the principal relevant policy and this largely covers similar points to former Policies 7.4 and 7.6. Neither the new policy nor the revised Framework have brought me to any different decision on the appeal and therefore I have not considered it necessary to invite the appeal parties to comment on the new documents.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the host building, its surroundings on Filey Avenue and on the Northwold and Cazenove Conservation Area.

Reasons

4. The appeal site is in a prominent position facing onto the junction of Filey Road and Chardmore Road and is situated within the Northwold and Cazenove Conservation Area. No 11B together with 11A is a semi-detached pair of originally 2 storey houses, plus basement and loft accommodation, built in brick under a slate and tile roof. No 11B, the appeal property, has a large two storey, flat roofed side extension that appears disproportionate to the property as originally built and the ground floor main and secondary entrances to the property situated in this side extension are elevated up steps.
5. To the rear of the property, No 11B and its neighbours have various extensions and alterations and the character is a mix of roof forms and projections. The

extent of the flat roof side extension to No 11B occupies the full width of what would have been a large side garden to the property and extends the full depth of the house. A single storey extension projects the length of the garden attached to the original house and an existing, small, lean-to extension sits on the rear of the property in approximately the position of the proposed bathroom and currently houses the boiler and storage. The result of these various extensions is that there is now only a small amount of private amenity space for the property to the rear.

6. The proposal would provide bathroom accommodation all on one level for a disabled occupant of the house within a small, single storey, flat roofed, ground floor offshoot that would sit on the site of the existing lean-to with a new boiler house and store immediately adjacent. The new bathroom would extend deeper than the existing lean-to but would be approximately the same width.
7. I acknowledge that the proposed extension would be modest and to the rear in an enclosed garden but there has been no attempt to design it sympathetically with the host building. It would sit adjacent to the relocated boiler house/store but does not seek to integrate with that structure. The result would be two separate flat roof extensions of different heights and depths immediately adjacent to each other creating a disjointed appearance to the rear elevation.
8. I accept that the extension will not be seen from the public realm on the street but it would be visible in private views of the rear of the property from rear windows in Chardmore Road in which the extensions would appear out of character. In any event, within a conservation area, the fact that a development cannot be seen from the public realm is not a justification for poor design where 'anything goes'.
9. The Framework at paragraph 130 requires that developments must be sympathetic to local character to create high quality buildings and spaces amongst other things and in these respects the proposal fails. Policy D3 of the LP2021 reflects the Framework in requiring development to respond to the existing character of a place and be of high quality, with architecture that pays attention to detail. The same is the case with *Hackney Local Plan* (HLP) Policy LP1 which requires all development to be of the highest architectural and urban design quality and to respond to local character and context and be compatible with existing townscape amongst other things. For the above reasons i.e. the positioning and design of the rear extension, the proposal would have an unacceptable impact on the established character and appearance of the host property and constitute harm to the Conservation Area.
10. As such the requirements of the Framework at paragraph 199 and Policy HC1 of LP2021 would not be met. I accept that the harm to the Conservation Area would be less than substantial and in these circumstances the Framework at paragraph 202 allows for any public benefits of the proposal to be taken into consideration. In this case the appellant has presented no public benefits. Any benefit from the extension would be a largely private benefit to the owners and occupants of the property. As such the harm to the Conservation Area would not be outweighed. The extension would also be in conflict with HLP Policy LP3 which, in conservation areas, requires development to preserve or enhance the character and appearance of the area. In this case the proposal would fail to achieve this and would fail to at least preserve the Conservation Area.

Other Matters

11. I note that the extension would be designed to meet the sustainability requirements of the *Hackney Residential Extensions and Alterations Supplementary Planning Document* (SPD). However, this is no more than would be

expected as good practice in any new development and therefore the effect of this is neutral when considering the appeal.

12. Earlier extensions to the property have already resulted in the loss of more than 50% of the private amenity space for the property and it has been put to me that the further loss as a result of the extension would mean that there would be insufficient private amenity space remaining for the occupants of No 11B. Whilst there would be some further decrease in the size of garden available, reducing its usable depth by about 2.5 metres, there would still be some amenity space for activities such as sitting out, drying clothes and children's play. Were this the only issue of concern with the proposal it would not of itself necessarily warrant dismissing the appeal but in combination with the harm to the character and appearance of the property it increases the unacceptability of the proposal.
13. I have had regard to the Public Sector Equality Duty contained in the Equality Act 2010 and I note that the appellant states that the bathroom accommodation would be for a disabled person with the aim of getting all facilities for the occupant on one level even though access to the ground floor would remain stepped. I acknowledge that there is currently no bathroom accommodation on the ground floor other than a small toilet at the end of the rear offshoot and therefore I accept that bathroom accommodation would be justified for a disabled occupant. However, the accommodation shown on the plans for the disabled person would occupy almost all of the floor area of the ground floor in the side extension and part of the ground floor area of the original house. It has not been demonstrated in the evidence before me that bathroom, living and sleeping accommodation could not be satisfactorily accommodated within this large space. Thus, whilst disability needs can clearly be a material consideration, I am not persuaded that in this case there would not be an alternative way to meet the need, without constructing a further extension to an already substantially enlarged property and to the further detriment of the character of the property and the Conservation Area. Even it were proven that bathroom accommodation could not be accommodated within the existing floorspace, more thought should have been given to finding a design for the bathroom and boiler/store that was more in keeping with the house rather than simply 'bolting on' two flat roof extensions.

Conclusion

14. In reaching my decision I have had regard to the matters before me but for the reasons above the appeal should be dismissed.

P. D. Biggers

INSPECTOR