

Appeal Decision

Site visit made on 21 October 2021

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 November 2021.

Appeal Ref: APP/U5360/D/21/3282403

12 Hassett Road, Hackney, London E9 5SN

- 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 Johan Hybschmann against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2021/1561, dated 18 May 2021, was refused by notice dated 27 July 2021.
 - The development proposed is described as *"a new extension to the rear of the property, (less than) full-width at ground floor, and (less than) half-width at first floor level. It is also proposed to convert the existing garage into a bedroom, directly connected to the house internally. The front facade is therefore proposed to be altered with new window openings, new door and new cladding to some wall sections. The design proposal includes adding clerestory windows to the upper part of the roof to the front facade, to allow more north-facing light into the bedrooms. The front garden is proposed to include bike & bin storage and an additional planter to include more green planting adjacent to the street."*
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed rear extension on the living conditions at 14 Hassett Road with particular regard to daylight, sunlight, and visual impact.

Reasons

3. The appeal property is a mid-terrace, three-storey building of contemporary design. The proposal would include adding a part single-storey, part two-storey extension to the rear. The single-storey element would adjoin a larger, single-storey extension to the rear of the attached property at No 10. The two-storey element would span roughly half-the width of the house and would be set marginally off the shared common boundary with No 14. No 14 is un-extended to the rear and has two sets of fully glazed patio doors across its rear elevation. These both serve a single living, dining, and kitchen area to the neighbouring property.

4. The Council's *Supplementary Planning Document - Residential Extensions and Alterations* (SPD) was approved in April 2009 and provides guidance for undertaking extensions and alterations to private dwellings within the Borough. Part 3 includes design guidelines for rear extensions. It states that all extensions should comply with the 45-degree rule in order to avoid them becoming overly dominant and visually bulky resulting in over-shadowing and loss of amenity for neighbours. For two-storey rear extensions the SPD explains that the 45-degree rule serves three purposes; to prevent undue loss of daylight to neighbouring properties, to avoid excessive overshadowing of gardens, and to preserve a reasonable standard of outlook. Figures 3.6A and 3.6B in the SPD illustrate application of the 45-degree rule in plan and section, and paragraph 3.33 explains that an extension should not exceed a line taken at 45 degrees from the centre of the nearest ground floor window of a habitable room in an adjoining property.
5. The appellant has submitted a Daylight and Sunlight Report from a firm of Chartered Surveyors. The report finds that the proposed development would have a low impact on daylight and sunlight to neighbouring properties' windows and that the adjoining gardens would meet the Building Research Establishment recommendations for the availability of sunlight. I have no reason to doubt these findings, which demonstrate that there would be no harm to the living conditions at No 14 in terms of daylight and overshadowing.
6. The appellant has sought to demonstrate that the proposal would satisfy the 45-degree rule by projecting a line across No 14 from the nearest corner of the extension on plan form, and from the maximum height of the extension on elevation. This is depicted on Drg No P-11. However, in both instances the 45-degree line would breach the Council's guidelines as they relate to the nearest set of patio doors. I do not share the appellant's view that the scenario at No 12 would match that shown at Figures 3.6A and 3.6B of the SPD. The nearest ground floor openings to No 14 are fully glazed patio doors providing daylight to, and outlook from, the habitable living space they serve, unlike the entrance door that is shown on the Council's illustrations. I recognise that the SPD could not reasonably cover all options, but the arrangement of windows and doors to the rear of No 14 strikes me as being amongst those the 45-degree rule is intended to protect. I appreciate that the habitable space to the rear of No 14 is served by all of the ground floor openings, and those furthest from the boundary with No 12 would pass the 45-degree rule test. Nevertheless, those nearest to the boundary would not. These provide an outlook and would be directly impacted by the proximity, depth, and height of the two-storey extension.
7. I have noted that the rear building line of the terrace as a whole includes some step changes between some neighbouring properties. However, whilst in those cases the deeper set property may impact the outlook from the recessed neighbour to a degree, the arrangement is part of the original design and layout of the properties. In the case at No 12, the deeper building line proposed would impose itself upon the living conditions at No 14 in a way that would impact the current level of residential amenity enjoyed by the neighbours. I note that there was no objection expressed by the neighbouring occupiers to the proposal but this does not alter my view that the impact would be harmful.

8. Overall, I find that the extension would appear as a visually intrusive and dominant addition when seen in the outlook from the rear of No 14. This would be harmful to the living conditions of the neighbouring occupiers. As such, there would be conflict with Policy LP2 of the Hackney Local Plan 2033 (adopted July 2020) insofar as it seeks to avoid development having a significant impact on the amenity of occupiers and neighbours, including in terms of outlook. The Council's decision notice also refers to conflict with Policy D6 of The London Plan 2021. This was not referred to in the officer's report and I have not been provided with a copy of the policy. Notwithstanding, the conflict I have identified with the Hackney Local Plan 2033 leads me to conclude that the appeal should fail.

John D Allan

INSPECTOR