



Appeal Decision

Site visit made on 25 November 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2021

Appeal Ref: APP/U5360/W/21/3277849

56 and 58 Alkham Road, Hackney, London N16 6XF

- 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 M Scher against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2021/1149, dated 13 April 2021, was refused by notice dated 8 June 2021.
 - The application sought planning permission for erection of additional story above two-story outrigger to Nos 56 / 58 Alkham Road N16 without complying with a condition attached to planning permission Ref 2020/3124, dated 17 December 2020.
 - 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.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of additional story above two-story outrigger to Nos 56 / 58 Alkham Road N16 at 56 and 58 Alkham Road, Hackney, London N1 66XF without compliance with condition 1 previously imposed on planning permission Ref 2020/3124 dated 17 December 2020 but subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from 17 December 2020.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: E00, E01, E02, E03, E04, E05, E06, E07, P01, P02, P03, P04, P05, P06, P07 & P08.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Procedural Matter

2. The site address refers to the address as 58 Alkham Road, however, it is clear that the proposal relates to both 56 and 58 Alkham Road and I have determined the appeal on this basis.

Background and Main Issue

3. Planning approval has previously been granted for an additional storey above the existing two-story outrigger which sits to the rear elevations of both neighbouring properties. This proposal seeks to substitute the approved plans for alternatives which would see the previously approved extension to the outriggers increase in height by 0.5m. The main issue is the effect of the increase in height of the outrigger on the character and appearance of the area.

Reasons

4. The proposal would see additional height added to the rear outrigger which would increase its scale and bulk. However, despite the increase in eaves height, the ridgeline of the outrigger would remain well below that on the main roof, which would allow it to remain subordinate to the main dwelling.
5. The rear elevations and roof slopes close by within the terrace do not exist in an unaltered state given that significant alterations to the rear roof slopes have been undertaken at both No.s 62 and 64 Alkham Road.
6. While the extensions would have limited visibility from the public domain, there would be some visibility, in the main from properties and gardens nearby on Alkham Road, Windus Walk and Kyverdale Road. When viewed from these locations it is not likely that the increased bulk would be especially noticeable, partly as a result of the Ark Court building closely to the south which is of substantial bulk and height.
7. Overall, the proposed increase in height would not be substantial having regard to the height of the extension which already has approval. The additional height would not result in an incongruous nor top heavy addition and as such it would not harm the character or appearance of the area.
8. The proposal would therefore accord with Policy LP1 of the Hackney Local Plan (2020) (HLP) and Policy D4 of the London Plan (2021) which amongst other things seek good quality design which is appropriate to the character of an area. The proposal would not conflict with Policies LP2, LP4 and LP47 of the HLP which relate to development and amenity, the protection of non-designated heritage assets and biodiversity.
9. I have not identified conflict with the broad guidance within the SPD¹ relating to residential extensions. There is some conflict in that the guidance indicates that rear extensions should be at least one storey lower than the eaves height of the building. However, this is not the case for the existing approved outrigger and the proposal as it is currently approved is contrary to this guidance. As such, I afford limited weight to this conflict.

Other Matters

10. The Council do not consider that the proposal would adversely affect the setting of the Northwold and Cazenove Conservation Area and given my conclusions above, I have no reason to disagree. There is nothing to indicate that overlooking would be materially worsened by the proposals. Further, while there are suggestions the 45 degree rule would be infringed in relation to

¹ Sustainable Design and Construction SPD 2016 & Residential Extensions and Alterations SPD 2009.

neighbouring properties, limited evidence is supplied and in any event, this acts as guidance only. The Council consider that the variation is not considered to result in any harm to the living conditions of neighbouring occupiers and I have no reason to disagree.

Conditions

11. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect and I have done so in this instance save for some rewording.
12. Section 73(5) of the Act states that permission must not be granted under this section for the development of land in England to the extent that it has an effect to change a condition subject to which a previous planning permission was granted by extending the time within which a development must be started. I have therefore adjusted condition 1 accordingly.

Conclusion

13. For the reasons set out above and having taken into account all other relevant matters, the appeal is allowed subject to the conditions.

T J Burnham

INSPECTOR