



Appeal Decision

Site visit made on 29 March 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 April 2022

Appeal Ref: APP/U5360/W/21/3282814

54 Moundfield Road, Hackney, London N16 6TB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class AC of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Margulies against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2021/1099, dated 1 March 2021, was refused by notice dated 5 July 2021.
 - The development proposed was described as 'adding on an additional storey to the principal elevation'.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class AC of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the erection of an additional storey above the existing dwellinghouse to provide an additional residential unit at 54 Moundfield Road, Hackney, London N16 6TB in accordance with the application ref 2021/1099 made on 1 March 2021 and the details submitted with it, including plan Nos: Ex-L001, Ex-E001, Ex-E002, Ex-P001, Ex-P002, Ex-P004, Ex-S001, Ex-S002, PR-L001, PR-E001, PR-E002, PR-P001, PR-P002, PR-P004, PR-P005, PR-S001 and PR-S002.

Preliminary Matter

2. The development description in the banner heading above is taken from the planning application form. Nevertheless, the description used by the Council on the decision notice more accurately reflects the development proposed, and I note that this description has been adopted by the appellant on the appeal form. Consequently, I have also used this description in my formal decision.

Background and Main Issue

3. Development consisting of works for the construction of new dwellinghouses immediately above the topmost storey on a terrace building in use as a single dwellinghouse, as well as certain associated works, is permitted by Schedule 2, Part 20, Class AC of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO') subject to limitations set out at paragraph AC.1, and conditions at paragraph AC.2.
4. The Council considers that the proposal would not meet the limitation at AC.1(g) which specifies that development is not permitted by Class AC if the

height of the highest part of the roof of the extended building would exceed by more than 3.5 metres the height of the highest part of the roof of every other building in the row of terrace buildings of which it forms part. The Council has not raised objections in relation to the other limitations at AC.1 or the conditions at AC.2, including the prior approval matters listed at AC2.(1), and I can see no reason to take a different view.

5. The main issue is therefore whether or not the proposal would comply with the limitation at AC.1(g).

Reasons

6. The appeal relates to a terraced dwelling within a row of dwellings of similar original appearance at 52-74 Moundfield Road. 62 Moundfield Road was undergoing building works at the time of my visit which it appeared will provide for an additional storey, and 104-106 Moundfield Road which adjoins the side of No 74 is a three-storey building. However, other buildings in the terrace are two-storey with roofs that step generally upwards in height from No 74 towards No 52 as land levels rise along this part of Moundfield Road towards the south.
7. The appeal building is close to the southern end of the terrace, and already sits higher than most other buildings in the terrace. The proposal for an additional storey would further increase the height of the appeal building by around 2.45 metres. No street scene drawing has been submitted, and the height of the development relative to other buildings in the terrace is therefore unclear.
8. However, Article 2(2) of the GPDO explains that any reference in the Order to the height of a building is to be construed as a reference to its height when measured from ground level. It further explains that the meaning of 'ground level' is the level of the surface of the ground immediately adjacent to the building in question or, where the level of the surface of the ground on which it is situated is not uniform, the level of the highest part of the surface of the ground adjacent to it. Based on my observations, the difference in height of the development relative to other buildings in the terrace when height is measured from the ground level immediately adjacent to the individual building in question is unlikely to exceed 3.5 metres.
9. Moreover, the limitation at AC.1(g) states that development is not permitted if 'the height of the highest part of the roof of the extended building would exceed by more than 3.5 metres the height of the highest part of the roof of **every other building in the row** of terrace buildings of which it forms part' (my emphasis).
10. Even if I were to consider the height of the development relative to the actual height of other buildings in the terrace, the adjoining dwelling at No 52 to the south is on higher ground, and its roof sits above the existing appeal building roof. The increase in height above this neighbour would therefore be less than the height of the additional storey (around 2.45 metres). Consequently, it is evident that the development would not exceed the height of No 52 by more than 3.5 metres. Even if the proposal would result in the development exceeding the actual height of some of the buildings in the row of terrace buildings by more than 3.5 metres, it would not therefore exceed the height of every other building in the row.

11. Accordingly, I conclude that the proposal would not conflict with the limitation at AC.1(g), and there is no reason to withhold prior approval.

Conditions

12. Development permitted under Article 3(1) and Schedule 2, Part 20, Class AC of the GPDO must adhere to conditions set out in paragraph AC.2 of that Class.
13. It is not therefore necessary to repeat them as part of my formal decision, but to assist the parties, the conditions at AC.2 specify that:
- the development must be completed within a period of 3 years starting with the date prior approval is granted;
 - the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
 - following the development, the roof pitch of the principal part of the building must be the same as the roof pitch of the principal part of the existing dwellinghouse;
 - the development must not include a window in any wall or roof slope forming a side elevation of the dwellinghouse;
 - before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated;
 - the developer must notify the local planning authority of the completion of the development as soon as practicable after completion and the notification must be made in writing and include the name of the developer, the address or location of the development and the date of completion; and
 - every dwellinghouse in the building must remain in use as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.

Conclusion

14. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

J Bowyer

INSPECTOR