



Appeal Decision

Site visit made on 18 August 2022

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1ST September 2022

Appeal Ref: APP/U5360/D/22/3297314

165 Osbaldeston Road, Hackney, London, N16 6ND

- 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 Joel Grunwald against the decision of the London Borough of Hackney Council.
 - The application Ref 2021/3117 dated 19 October 2021, was refused by notice dated 16 February 2022.
 - The development proposed is erection of a hip to gable roof extension, a rear roof dormer extension, excavation of basement and formation of a rear lightwell, erection of a two storey rear extension at basement and ground floor.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.

Main Issues

3. The main issues are the impact of the proposal upon i) the character and appearance of the host building and Northwold and Cazenove Conservation Area (CA) and ii) the residential amenity of neighbouring occupiers at 163 Osbaldeston Road (no. 163) with regard to loss of light, increased sense of enclosure and overbearing impact.

Reasons

4. The appeal site is a two storey, with lower ground floor, end of terraced residential property in a predominantly residential area. There are several elements to the proposal and the Council's report confirms that the proposed rear lightwell and other generally associated alterations would be appropriate. I have no evidence before me to conclude differently and note that the refusal reasons are specifically based upon the proposed works at roof level as well as the rear extension. At the time of my visit I noted that buildings in the immediate area are varied in both scale and style. The character and appearance of the area is not, therefore, uniform but it still falls to assess specific impact of the proposals on their own merits.
5. The proposed hip to gable extension would, I find, have limited impact from within the street scene of Osbaldeston Road itself as the front design features of the existing dwelling would remain dominant from this viewpoint. Despite this, at the time of my site visit, I also went down Oldhill Street to the rear of

- the appeal site and noted that the site is very, if not more, visible from this viewpoint in the street through the gap in the buildings that provides vehicular access to flat numbers 1 – 12 (inclusive) adjacent to the appeal site.
6. From the rear viewpoint the existing roof form provides a visual break between the row of terraces and the neighbouring flatted development which is of a differing height. The gap manages the transition between the neighbouring built form and this would be lost as a result of the proposed roof alterations. This loss of visual gap, as a result of the hip to gable extension, would then be combined with a full width dormer which would result in a complete loss of the rear roof plane and extend fully between party walls. The dormer would not be set in from the sides, nor stepped down from the ridge line.
 7. Overall the dormer would be entirely at odds with the guidance set out within the Supplementary Planning Document Residential Extensions and Alterations 2009 (SPD), in particular paragraph 3.78 and 3.82. In addition the SPD confirms, at paragraph 3.69, that any proposed roof conversion should be designed to reflect the original roof type and 3.69 confirms that it is not normally acceptable to change the form of a roof, particularly where the house is at the end of a terrace as is the case with this appeal site. The proposals sadly seem to have taken little account of the guidance within the SPD which would result in a dominant and incongruous addition as a result of the proposed roof alterations. I do not find that the proposal would be modestly sized or that it would remedy a claimed imbalance.
 8. The appellant references other sites, however, no further detail has been submitted as evidence before me such as plans, or copies of relevant permissions, to enable me to attribute weight and in any case each case must be considered on its own merits – they do not set a precedent. The enforceability, or not, of neighbouring alterations is outside the scope of this appeal. I noted some other extensions during my site visit which may now be part of the character of the area, however, the consultee response before me states that many of the extensions in question pre-dated establishment of both the CA and adoption of the guidance within the SPD. The appellant has not provided evidence to the contrary on this point and I must determine the proposals before me based upon the Local Plan, and SPD guidance as a material consideration, at the point of determination.
 9. I note that neighbouring dwelling, no. 163, has had a similar roof extension to what is proposed and whilst this is partly visible from Oldhill Street it is not fully visible in views within the CA. I find that 163 would not likely have been as important in terms of a visual gap between the appeal site and the neighbouring flatted development at the end of the terraced row. The proposal before me, being highly visible, I find harms views within the CA as a result of the changes to the host building resulting in less than substantial harm to the CA as a heritage asset. The proposal does not preserve or enhance the CA. Overall, I find that the proposed hip to gable roof extension and rear roof dormer would, as a result of scale, width, massing, design and siting appear visually incongruous and detrimental to the character and appearance of the host building and the CA.
 10. The ground floor and basement extension would extend to a depth of 5m. Above ground level this would be akin to a single storey rear extension which the SPD advises, for terraced/end of terraced houses, should not exceed 3m.

The proposal is contrary to the guidance due exceeding this by a further 2m i.e. more than 50% again of the advised depth. The combination of a large extension of this nature, with the aforementioned roof alterations, would result in a combination of proposals which fail to be subordinate to the host dwelling and would make the original rear elevation unrecognisable in a visible location within the CA.

11. The proposal would be contrary to Hackney Local Plan 2020 (LP33) Policy LP1 which requires development is of the highest architectural quality and must respond to local character and LP33 Policy LP3 which confirms that development that leads to less than substantial harm to heritage assets should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use and will not be permitted unless such benefits outweigh the harm.
12. The proposal would also be contrary to London Plan 2021 (LDN) Policy D3 which requires proposals to respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character. The proposal would also be contrary to the guidance within the SPD as specifically set out and identified within this decision letter.
13. The National Planning Policy Framework 2021 (the Framework) states, in paragraph 199, that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. I find the proposal would result in less than substantial harm to the CA as a result of the visibility outlined above. The appellant's original D&A and Heritage Statement, as part of the submission documents, also concluded that the proposal would less than substantial harm to the CA.
14. In accordance with the Framework, paragraph 202, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The proposal is for alterations to a single residential dwelling and I have no evidence before me to support that the proposal would result in any public benefits or is securing optimal viable use to outweigh the weight which should be given to the harm which has been identified.

Residential amenity

15. The third refusal reason is specific to the two storey rear extension at basement and ground floor levels with regard to loss of light, increased sense of enclosure and overbearing impact due to depth, scale and siting for the neighbouring occupiers at no. 163. The extension would have a depth of 5m from the rear elevation of the host buildings which, as outlined earlier within this decision letter, would exceed the depth advised within the SPD (3m) for a property of this nature at a height in the region of 3m. The guidance within the SPD, with regard to rear extensions, is specifically set out to mitigate impact upon the general amenity and daylight of neighbours.

16. The impact of the proposed rear extension would be at its greatest in the amenity area immediately outside the rear of the neighbouring dwelling which is commonly the most heavily utilised area of private amenity space. The neighbouring property has been extended but not to the side closest to the appeal site. The proposal would result in a sense of enclosure along one side which would be overbearing due to the presence of built form for 5m along the shared boundary with no set in. Furthermore I have no evidence that would support that the proposal would not result in an unacceptable loss of light with regard to the neighbouring lower ground floor windows.
17. The proposal would be contrary to LDN Policy D6 which requires the design of development to provide sufficient daylight and sunlight and LP33 Policy LP2 which confirms that all development should be designed to ensure there are no significant adverse impacts on the amenity of neighbours. The proposal would also be contrary to the guidance within the SPD as specifically set out and identified within this decision letter.

Other Matters

18. The appellant's submission is acknowledged to confirm that the SPD is guidance and this is noted and has been applied as such within my assessment. The use of wording such as *not normally acceptable* or similar allows for assessment of each case upon its own merits with the guidance providing a well evidenced and established starting point for assessment. Departure from such guidance can be justified if the proposals which do not comply are, overall, consistent with the overarching objectives which are to ensure good quality, appropriate, design for both the host building and wider area which also maintains an appropriate level of residential amenity.
19. For the reasons outlined I do not find the proposals before me are consistent with such objectives nor takes into account the SPD guidance. Paragraph 134 of the Framework confirms that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

Conclusion

20. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR