



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: 20 September 2022

Appeal Ref: APP/U5360/D/22/3298541

13 Gunton Road, Hackney, London, E5 9JT

- 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 Roth against the decision of the London Borough of Hackney Council.
- The application Ref 2022/0445 dated 21 February 2022, was refused by notice dated 19 April 2022.
- The development proposed is excavation of additional basement, together with alterations to front lightwell and excavation of rear lightwell. Ground floor 6m rear extension and infill extension approved under application 2020/3240.

Decision

1. The appeal is allowed and planning permission is granted for excavation of additional basement, together with alterations to front lightwell and excavation of rear lightwell. Ground floor 6m rear extension and infill extension approved under application 2020/3240 at 13 Gunton Road, Hackney, London, E5 9JT in accordance with the terms of the application ref: 2022/0445 dated 21 February 2022 subject to the following conditions:
 - 1) The development to which this permission relates must be begun not later than the expiration of three years, beginning with the date of this decision;
 - 2) The development hereby permitted shall be undertaken in complete accordance with the following approved plans: site and block plan E00, proposed floor plans P01, proposed floor plans P02, proposed floor plans P03, proposed elevations P04, proposed elevation P05, proposed elevation P06, proposed section P07 and proposed section P08.
 - 3) The materials used in development hereby permitted shall match those of the existing dwelling unless details are submitted to, and approved in writing by, the Local Authority;
 - 4) Prior to superstructure works, detailed specification, a drainage layout and a management & maintenance plan (where applicable) of at least one suitable sustainable drainage systems (i.e. water butt with overflow, raingarden, bioretention planter box, living roof (substrate depth of 80-150mm excluding the vegetative mat), permeable paving etc.) shall be submitted to, and approved by the LPA, in consultation with the LLFA. If soakaways i.e. plastic modules and soakaway rings are used, an infiltration test must be carried out to ensure that the capacity of the soil is suitable for infiltration.

It must be demonstrated that there will be no increase in surface water flow being discharged offsite and an overall reduction in peak flow rate and volume;

- 5) No development shall commence, other than works of demolition, until a report (including intrusive investigation/trial pit and monitoring where necessary) demonstrating that the basement development will not increase the potential for groundwater flooding to itself or to the surrounding area during and post-construction has been submitted to the Local Planning Authority for approval.

Where groundwater is identified as a potential risk, details of appropriate controls including flood resilience and/or resistance measures shall be submitted to the LPA for approval and the approved measures incorporated before the basement is occupied. The basement shall be constructed and completed in accordance with the approved plans in line with BS8102:2009 code of practice for "protection of below ground structures against water from the ground";

- 6) The flat roof of the approved ground floor extension shall not, at any time, be utilised as a balcony or terrace.

Procedural Matters

2. At the time of my site visit I also undertook a site visit as part of the determination of a second appeal at adjoining property 15 Gunton Road (APP/U5360/D/22/3298598). Each case is to be considered on its own merits. The appeals are the subject of separate decisions and I have determined the proposals based upon the statement of case and evidence which is before me within each appeal although there are evidently similarities as mirror proposals.

Main Issue

3. The main issue is the impact of the proposal upon the character and appearance of the host building and the area.

Reasons

4. The appeal site is a three-storey terraced dwelling located within a residential area within a row of similar Victorian terraced buildings. I note that the Council have changed the description from that stated on the application form. The proposal ultimately seeks to excavate a basement and erect a two-storey rear extension at basement and ground floor level. There is no objection in design terms, from the Council, to the front lightwell as these are noted to be a feature in Gunton Road. I have no evidence before me to conclude differently.
5. Under reference 2020/3240 (9 December 2020) prior approval was granted for a larger home extension that it in two parts, with each having a depth of 6m and a maximum height of 3m. The Council acknowledge this as representing a realistic fallback position as well as being a material planning consideration with regard to the above ground rear extensions. Whilst I note that there is no fallback position for the ground floor extensions, when built in conjunction with the proposed basement excavation, and that the current proposal needs to be considered in the light of the development plan policies the presence of such a fallback can still support a departure from such policies in some cases. This falls to be considered as part of the assessment.
6. The ground floor element has the largest potential to impact upon character and appearance of the host building and the area but I find the Council's refusal reason is based upon the association of the basement and the ground floor element. The ground floor extension would exceed the guidance set out

within the Supplementary Planning Document: Residential Extensions and Alterations 2009 (SPD). Whilst the combined proposals fall to be considered against the Local Plan I place strong weight upon the fact that prior approval was granted for a larger home extension up to a depth of 6m in justifying a departure from the guidance. I also find that the proposal is consistent with the design principles and overarching for all rear extensions set out within 3.13 to 3.21 (inclusive) of the SPD guidance.

7. Whilst I note the guidance within the SPD, that extensions should be designed to respect the character and size of the original house, there is no specific guidance on basement extensions within the SPD. The basement would add notable size, however, its impact on the host building being subterranean would be limited with the prior approval offering a viable fallback to construct the large ground floor extension in any case.
8. The Council acknowledge that there are habitable basements to buildings in Gunton Road and, though these are stated not to have significant rearward projection as with the appeal site before me, it does demonstrate that habitable basements are characteristic of the area. Whilst the projection is noted I do not find that the size, contained within the footprint of the proposed ground floor extension, would warrant refusal simply because it is larger than other examples. In this case the proposed basement would be contained within the footprint of the ground floor extension and would facilitate a playroom area and storage space.
9. This application proposes to extend the existing basement back towards the rear of the house where it would follow the footprint of the ground floor extension above. It being subterranean, within a private garden, means I find it cannot impact upon the appearance of the area. The would be contained within the footprint of the property and would not have any impact on the character and appearance of the surrounding area, therefore there would be no impact on the street scene.
10. The proposal would be consistent with London Plan 2021 Policy D4 which seeks to ensure that buildings and structures are of the highest architectural quality. The proposal would be consistent with Hackney Local Plan 2020 Policy LP1 which seeks to ensure developments provide good and optimum arrangement of the site in terms of form, mass and scale as well as identify with and respect the architectural quality and character of the surrounding environment and the overarching objectives of the SPD.

Other Matters

11. The starting point for determination is the Local Plan in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004 taking into account relevant material considerations. This application is not, in the presence of an up to date Local Plan, one which should be subject to a planning balance in accordance with the National Planning Policy Framework 2021. I note the appellant's reference to 39 Darenth Road, however, only limited information is provided before me and each case must be considered on their own merits.
12. There are a number of objections to the proposals. Comments are noted regarding concerns that the site may become a House of Multiple Occupation, School or Place of Worship or be subject to subdivision however, I must consider the proposal as submitted before me. Any future changes of use

would be subject to further applications for permission and planning control. The noise generated by current building works is outside the scope of this appeal and is, in terms of the lifetime of the development, short term and insufficient to warrant a refusal reason.

13. The Council have not raised issues with traffic, parking or noise and I have no evidence before me to conclude differently on these matters based upon the evidence before me and I also note the site stands within a controlled parking zone. Comments regarding stability are noted and such matters fall within Building Regulations and Building Control during construction. I have dealt with character and appearance within the main body of this decision letter and I have applied a condition requiring materials to match existing to ensure an appropriate palette. Concern regarding loss of light is noted, however, the Council have specifically assessed this and consider the extensions would not result in unacceptable loss of light to neighbouring properties. Based upon the plans before me I have no reason to conclude differently.

Conditions

14. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent. A materials condition is required to ensure the proposal matches the host dwelling and that any deviations in materials from existing are approved by the Council to ensure an appropriate finish.
15. The Council have suggested two further conditions, within both their delegated report and appeal questionnaire, relating to drainage and groundwater which I have applied to ensure the proposal will not increase the potential for groundwater flooding. An operational condition to prevent the flat roof being utilised as a balcony or terrace has been applied to prevent unacceptable overlooking of neighbouring properties and gardens as noted in the Council's report.

Conclusion

16. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR