



Appeal Decision

Site visit made on 17 August 2022

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 2 November 2022

Appeal Ref: APP/U5360/W/22/3292283

34 -36 Leabourne Road, Hackney, London, N16 6TA

- 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 Gluck against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2021/0949, dated 18 March 2021, was refused by notice dated 6 October 2021.
 - The development proposed is a single storey joint ground floor extension
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development upon the living conditions of occupiers of the application site, having particular regard to amenity space.

Reasons

3. The application site relates to two mid-terraced dwellings. Both dwellings appear to have been previously extended. The proposed development is a joint application to extend the existing ground floor of both properties. This would take an asymmetric form such that the extension at no 36 will match the same protruding dimensions of the extension at the adjacent no 38, but the proposal in relation to no 34 would be shorter in depth.
4. The Local Development Framework Supplementary Planning Document Residential Extensions and Alterations (2009) deals with garden amenity provisions. It highlights the importance of gardens for amenity, habitats and natural drainage. It also sets out a presumption against the unacceptable loss of external amenity space, which as a general rule, should not result in a loss of more than 50% of any existing amenity space. The advice also explains that any extension or alteration should not compromise the quality and usability of any remaining space.
5. The proposed development will affect the amount of amenity space, which is available in the gardens for both dwellings, albeit the extension for no 36 will more significantly constrain the remaining space available that dwelling. This is due to the larger dimensions of that extension and the footprint of an existing garden store. While no 34 is included within the proposed development, I have

focused on the amenity space available for no 36, given the further constraints which have been planned.

6. The appellant and the Council have not reached an agreement as to whether the proposed development would result in the loss of more than 50% existing amenity space. Nonetheless, I have found that the proposed development would reach the threshold of an unacceptable loss of external amenity space, specifically in relation to the rear garden of no 36. If the proposed development were to occur, there would be a significantly limited amount of remaining space available for outdoor amenity. In combination with the existing garden store, this would leave insufficient space available for outdoor sitting, recreation or outlook. Additionally, there would be considerable constraints on the useability, flexibility and adaptability of this space, given the tight enclosure of the garden wall and extension boundaries. It is therefore irrelevant whether there is more than a 50% loss of external amenity space.
7. In conclusion, the proposed development would harm the living conditions for the occupants of no 36, although they would likely be acceptable for those occupying No 34. However, the developments are linked with each other and the proposed development is therefore unacceptable as a whole. The development would not comply with the criteria for design quality, contrary to policy LP1 of the Hackney Local Plan 2033 Strategic Planning (July 2020), specifically the need to be adaptable, robust and flexible in use. Additionally, the proposed development would compromise the garden amenity provisions, contrary to the Local Development Framework Supplementary Planning Document Residential Extensions and Alterations (2009).

Other Matters

8. Planning permission was given in 2021 (Council ref 2021/0943) for matching ground floor extensions at Nos 34 and 36. Although similar in design terms as the current proposal, that scheme would result in both extensions being the same depth as what is currently proposed for No 34, therefore retaining significantly more garden space at the rear of No 36. Whilst there is a real prospect of that scheme being implemented if the current appeal is dismissed, the end result would be a distinct improvement upon what is currently proposed. The presence of the alternative scheme with planning permission does not therefore outweigh my conclusion on the main issue in this case.

Conclusion

9. I have found that the proposed development conflicts with development plan policy and thus find that it would be contrary to the development plan as a whole. Therefore, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

S Lo

INSPECTOR