
Appeal Decision

Site visit made on 25 October 2022

by David English BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2022

Appeal Ref: APP/W5780/W/22/3298156

42 and 42A Beattyville Gardens, Ilford IG6 1JY

- 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 Murtaza Siddiqui against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 0138/22, dated 14 January 2022, was refused by notice dated 31 March 2022.
 - The development proposed is the construction of basements at 42-42a Beattyville Gardens.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal involves the excavation and construction of basements below the existing house, 42 Beattyville Gardens, and a new house, No 42a, for which planning permission was recently granted (Council reference 3482/20). Work was well progressed on the construction of the new two-storey house at the time of my visit. The proposal relies on a Basement Impact Assessment ('the BIA') dated 12 May 2020 which was prepared in support of the planning application for the new house. I have determined the appeal on the basis of that BIA and the various plans showing the development as proposed.
3. The description of the development given in the planning application refers to the retention of the basements. The planning application form confirms that work has started but has not been completed. I have therefore dealt with the appeal on the basis of the plans noted above showing the development as proposed, and I have modified the description to indicate the development proposed is the construction of basements.

Main Issue

4. The Council's reason for refusal refers to requirements for sustainable biodiversity within the garden areas. Policy LP31 of the Redbridge Local Plan 2015 -2030 (March 2018) ('the Local Plan') is referenced in respect of this matter. However, while I recognise the intentions of Policy LP31 in respect of preventing harm to the natural environment and mature and valued trees, from the information provided to me, Policy LP31 does not set out any specific requirements for sustainable biodiversity in gardens where basement development is proposed. I have defined the main issue having regard to the principal purpose of Policy LP31 in the case before me which is in respect of preventing flooding.

5. The main issue is the effect of the proposal on the risk of localised surface water flooding at the appeal property and at neighbouring properties.

Reasons

6. The proposed basements below these two attached houses would extend significantly into their rear gardens. It is agreed between the main parties that their extent would be greater than that allowed for under Policy LP31 of the Local Plan. In respect of the provision of a sustainable urban drainage scheme, Policy LP31 also requires there to be 1 metre of permeable soil depth above the basement where it extends under a garden, and the proposal would fail to make such provision.
7. The BIA provides a comprehensive assessment of the effects on flood risk, amongst other things, of a basement proposed as part of the planning permission for No 42a. However, that basement was proposed to be built directly below the footprint of the new dwelling, it would be limited to the same width of the dwelling and approximately three-quarters of its length, and it would not project into the rear garden.
8. While the appellant relies on the conclusions of the BIA to support the proposal, that assessment considers the effects of a substantially and materially different basement proposal than the one now before me. It would be unrealistic and unsafe to rely on the conclusions in the BIA in this context.
9. The proposal involves significant excavation and removal of material from the rear gardens of the appeal properties. While the evidence shows measures proposed to be taken in the construction of the basements to prevent or address the effects of ingress of groundwater into the structure, there is nothing before me that demonstrates the effects of the proposal in respect of any localised changes in surface water drainage arising from the proposed works.
10. I accept that evidence shows the site is generally in an area at low risk of flooding from rivers, seas, reservoir water and public sewers. However, the BIA notes there is a high risk of flooding from surface water directly to the east of the site. The BIA concludes that surface water currently drains directly into the ground on the site. However, it does not consider the effects of introducing the proposed basements on the ability of the remaining ground to accommodate surface water at the site.
11. For this reason, without evidence that demonstrates how an appropriate drainage scheme can be achieved, I am not satisfied that the proposal would avoid the risk of localised surface water flooding at the appeal property and at neighbouring properties. I acknowledge that otherwise unacceptable development could be made acceptable through planning conditions, but in this case, given the scale of the proposal, it would be necessary to fully assess the effects before deciding whether planning permission should be granted. I am therefore not satisfied that the risk could be mitigated through planning conditions. Accordingly, the proposal conflicts with Policy LP31 of the Local Plan which seeks to ensure that basement development does not have an adverse impact on surface water drainage or flooding from all sources at the host property or at neighbouring properties.

Other Matters

12. I recognise that the basements would not be visible when completed. However, their appearance and their effect on the character of the area are not matters in dispute between the parties.
13. My attention is drawn to various planning permissions granted for several other large basement developments. Those developments are mostly some considerable distance from the appeal proposal, most pre-date the Local Plan, and I have nothing before me to demonstrate how the specific issue in dispute in the current case was addressed in all but one of those instances.
14. In the document 'Record of decision made under Delegated Powers' provided at Appendix H of the appellant's case (for the application reference 1574/20) it is clearly stated that the Council had received a Basement Impact Assessment, and they were satisfied that the proposal would accord with Policy 31 of the Local Plan in respect of risks of flooding.
15. In any event, the presence of other large basement developments in the wider area, and the granting of planning permission for such developments, does not justify further development where conflict exists with development plan policy and where harm would arise.
16. I note that reference was made in documents submitted with the planning application to an appeal decision (Appeal Ref: APP/R5510/D/19/3219841). This concerns a basement development in a different local authority area and, from the information provided, there is nothing to suggest that flood risk from surface water was at issue in that case.
17. I acknowledge that the appellant may have acted based on verbal advice from the Council and may have believed the works proposed were permitted development. However, without clear and unambiguous written advice, these circumstances could not constitute a formal permission or authorisation to commence works. I also recognise the benefits of providing a multi-generational home for the appellant and his parents, and I realise that the basements would form part of that accommodation.
18. I afford little weight to the examples of other basement developments provided by the appellant, and none of the matters raised by the appellant or the support for the proposal from a neighbour weigh in favour of the proposal to any significant degree. The benefits associated with providing additional space in a multi-generational home are not sufficient to outweigh the harm I have identified in this case, and I have determined the appeal on its merits and on the basis of the information available to me.

Conclusion

19. For the reasons given above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

David English

INSPECTOR