



Appeal Decision

Site visit made on 13 February 2023

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2023

Appeal Ref: APP/U5360/D/20/3259805

139 Clapton Common, Hackney, London E5 9AE

- 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 A Berger against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2020/1991, dated 3 July 2020, was refused by notice dated 4 September 2020.
 - The development proposed is the erection of ground floor rear extension; add additional height to existing ground floor extension; erection of a rear dormer and front roof lights; excavation to add additional height at basement level; front lightwell; and alterations to front stairs leading to front door and basement and associated elevational works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of ground floor rear extension; add additional height to existing ground floor extension; erection of a rear dormer and front roof lights; excavation to add additional height at basement level; front lightwell; and alterations to front stairs leading to front door and basement and associated elevational works, at 139 Clapton Common, Hackney, London E5 9AE, in accordance with the terms of the application, Ref 2020/1991, dated 3 July 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
CL.139.LP; CC.139.PR.01; CC.139.PR.02; CC.139.PR.03 Rev A;
CC.139.PR.04 Rev A; and, CC.139.PR.05.

Preliminary Matters

2. The name of the applicant on the application form was somewhat different to the name of the appellant on the appeal form. The appellant's agent has confirmed that the appellant and the applicant are the same person, Mr A Berger, and I have used this name in the banner heading above.
3. The Council of the London Borough of Hackney was subject to a cyber-attack in 2020, which, amongst other things, resulted in the loss of many documents associated with the application that was subject to this appeal. After a significant period of time and following considerable communication between the Planning Inspectorate and the main parties, the appeal was validated and commenced.

Main Issues

4. The main issue is the effect of the proposed rear dormer extension and the proposed front rooflights, on the character and appearance of the area.

Reasons

5. The appeal property is a traditional, brick-built house within a short terrace. It contains a projecting roof gable to the front and has a single rooflight on the roof slope facing Clapton Common. The building has two storeys plus basement to the front, with three storeys above the ground to the rear; there is a single storey, flat roofed extension that is the width of the property, next to the rear garden area.
6. The next door dwellings both have rear extensions of differing sizes and designs and the rear garden area is bounded by the side gable wall of 1 Leweston Place at the end, and by solid timber panel fences around 2 metres in height on each side, albeit with some gaps the fences.
7. The erection of a rear dormer that, amongst other things, does not exceed the height of the highest part of the existing roof, and where the cubic content of the resulting roof space would not exceed the cubic content of the original roof space by more than 40 cubic metres, is permitted development under Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
8. The erection of rooflights on the front roof slope that, amongst other things, do not project from the plane of the roof by more than 0.15 metres, is permitted development under Schedule 2, Part 1, Class C of the GPDO.
9. All of the proposed materials would match the existing. The proposed dormer would be set in from the sides of the property and positioned above the eaves. It would not exceed the height of the existing roof ridgeline and so would not be visible from Clapton Common to the front.
10. The proposed rooflights would be positioned either side of the projecting front roof gable and would be lower than its ridge height, reducing their visual impact somewhat in views from Clapton Common.
11. It is not clear from the evidence that the proposed dormer or the proposed rooflights would fully comply with the permitted development requirements of the GPDO. However, I am satisfied that the proposed dormer and rooflights would have a generally similar visual effect to what would be allowed as permitted development under Schedule 2, Part 1, Classes B and C of the GPDO.
12. I am also satisfied that implementing these permitted development rights would be a genuine prospect were the appeal to be dismissed and planning permission refused. Consequently, I give substantial weight to the fallback option that exists.
13. Reference is also made to a Lawful Development Certificate (LDC) granted by the Council at the appeal address, for a rear dormer and front rooflight¹. However, I am not familiar with this LDC or the evidence upon which it was based and so I give this no weight in my determination.

¹ LPA Ref. 2016/1881

14. For these reasons, the proposed development would have an acceptable impact on the character and appearance of the area. It would, therefore, not conflict with policy LP1 (design quality and local character) of the Hackney Local Plan 2033.

Other Matters

15. The roof of the existing rear extension contains two air conditioning units. These are not shown on the existing or proposed elevations and I have not considered them in determining this appeal.
16. I note the comments from third parties regarding the proposed development, including concerns with construction effects, overlooking and loss of light. The Council does not consider these to be significant issues, and from my observations on site and from the evidence, I agree with the Council in this regard.

Conditions and Conclusion

17. In addition to the standard commencement condition, a condition specifying the approved drawings would be necessary for reasons of certainty.
18. However, there is no compelling evidence before me that would require the proposal to include a Sustainable Drainage System, or a Swift nest box. Whilst both of these measures would contribute positively to the area, from the limited evidence before me and given the limited scale of the proposed development, it has not been demonstrated that they would meet the tests of necessity or reasonableness².
19. For the reasons given above, I conclude the appeal is allowed.

Andrew Parkin

INSPECTOR

² Paragraph 56 of the National Planning Policy Framework 2021