
Appeal Decision

Site visit made on 28 February 2023

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th March 2023

Appeal Ref: APP/U5360/D/22/3309333
18 Brodia Road, Hackney, London N16 0ES

- 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 Romain Koly against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2022/1309, dated 26 May 2022, was refused by notice dated 12 August 2022.
 - The development proposed is the enlargement of existing basement and creation of lightwell to front garden – reduction in size of lightwell from previous application ref 2022/0333.
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Decision

1. The appeal is allowed and planning permission is granted for the enlargement of existing basement and creation of lightwell to front garden at 18 Brodia Road, Hackney, London N16 0ES in accordance with the terms of the application Ref 2022/1309, dated 26 May 2022, subject to the conditions set out in the schedule to this decision.

Procedural matter

2. While the appellant has described the proposal as in the above heading, the Council has referred to it as the enlargement of the existing basement and creation of a lightwell to the front garden. As the Council's description more succinctly reflects the development sought, I have proceeded on that basis.

Main issue

3. The main issue is the effect of the proposed development on the character and appearance of the host property and the local area.

Reasons

4. The appeal property is a mid-terrace dwelling of traditional style that stands behind a short front garden within a predominantly residential area, wherein buildings vary in type, design, and age. The proposal is to excavate under the main house to enlarge the basement of No 18. A front bay window would be introduced below street level that would face onto a new lightwell.
5. The new lightwell would be modest in size and set back from the perimeter of the front garden and the adjacent footway. Given that the front garden has a hard surface and only part of it would be affected by the new lightwell, the appeal scheme would not result in the loss of a verdant front garden. To the

contrary, soft landscaping would be introduced through planting in two new boxes placed alongside the existing boundary walls. As the new lightwell would be level with the ground surface and covered by a safety grill, it would not be a prominent feature in the street scene. That the new lightwell would also be partially screened by vegetation growing in the new planter boxes would further limit its visual impact in the local streetscape.

6. The proposal would differentiate No 18 from other dwellings in the same terrace and properties elsewhere along Brodia Road that from what I saw do not appear to have a front lightwell. It would also depart from the established pattern of existing development in the local area in which lightwells are typically a feature of Victorian houses with a raised ground floor above a habitable sub-basement with windows facing an open area often enclosed by railings at street level. The Council's Supplementary Planning Document, *Residential Extensions and Alterations*, (SPD) notes that excavations to create front lightwells in connection with new basements, where lightwells are not an established characteristic of the streetscape, will not normally be approved. To my mind, the inclusion of the word 'normally' within this guidance implies that exceptions may be permissible depending on local circumstances.
7. Nevertheless, the new lightwell would be largely screened from public view with very little, if any, of the enlarged front elevation readily evident from the road. Consequently, the new basement accommodation would be largely hidden from public view. As the proposal would be sympathetic in design and modest in scale, it would not draw the eye as a discordant feature nor affect how the scale of the host dwelling is perceived in the street nor upset the rhythm and unity of the wider terrace. From what I observed, other properties in the local area that have a front entrance and rooms at ground level, like No 18, include front lightwells that are visible from the road that do not detract from the character and qualities of the host building or the streetscape. Thus, I am not persuaded that the appeal scheme would be harmful to the character and appearance of the street scene or the local area if it were to proceed.
8. On the main issue, I therefore conclude that the proposed development would not materially harm the character and appearance of the host building or the local area. As such, it does not conflict with Policies D3 or D4 of The London Plan, Policy LP1 of the Hackney Local Plan 2033 or the Council's SPD. These policies and guidance broadly aim to ensure that all new development achieves high quality design; responds to local character and distinctiveness; is compatible with the existing townscape; and optimises the capacity of sites.
9. The appellant is critical of the Council's assessment of the proposal and places some reliance on various examples of properties with front lightwells in the local area. While I have considered the information provided in relation to each of the cases cited by the appellant, I have assessed the proposal on its own planning merits and find it to be acceptable for the reasons given.

Conditions

10. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty. To ensure the satisfactory appearance of the development, a condition is imposed to require that the external materials match those of the existing building.

11. A condition is also imposed to require an appropriate flood risk assessment to ensure that the completed development is properly drained. This requirement reflects the consultation response from the Council's Drainage Engineer, which is referred to in the Officer's report. This consultation reply appears to consider the flood risk resilience measures and waterproofing put forward in Section 5 of the appellant's Flood Risk Assessment, dated May 2022. The suggested condition has been slightly reworded for clarity and precision.

Conclusion

12. For the reasons set out above, I conclude that the appeal should be allowed.

Gary Deane

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Refs (P)1001, (P)0101 Revision B, (P)0102 Revision B, (P)0201 Revision B, (P)0202 Revision B, (P)0203 Revision B and (P)0204.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) No development below ground level shall commence until a report (including intrusive investigation/trial pit and monitoring where necessary) demonstrating that the basement hereby permitted will not increase the potential for groundwater flooding to itself or the surrounding area has been submitted to, and approved in writing by, the Local Planning Authority. The report shall include details of appropriate controls including flood resilience and/or resistance measures against surface water (overland flow) and groundwater (if identified). The approved measures shall be incorporated and completed before the basement is first occupied. The basement shall be constructed and completed in accordance with the approved plans in line with BS 8102:2009 code of practice for "protection of below ground structures against water from the ground" and current best practice.