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## Appeal Decision

Site visit made on 3 October 2023

**by Gary Deane BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18.10.2023**

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**Appeal Ref: APP/U5360/D/23/3321788**

**34 Forburg Road, Hackney, London N16 6HS**

- 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 P Landau against the decision of the Council of the London Borough of Hackney.
  - The application Ref 2022/2584, dated 27 October 2022, was refused by notice dated 28 April 2023.
  - The development proposed is the erection of rear ground floor infill extension.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. The appellant has provided additional plans at the appeal stage that show different windows to the new extension and obscurely glazed panels on its roof compared to the drawings that accompanied the application. To my mind, these changes result in a scheme that is different in substance to that determined by the Council insofar as the effect on the character and appearance of the host building and the local area are concerned. While the appellant states that the revised plans were submitted to the Council, there is no indication that these were formally considered or that others were consulted on them. Consequently, interested parties could be prejudiced if I were to consider these additional drawings. Therefore, in the interests of fairness, I have not done so. For the avoidance of doubt, I have determined the appeal on the basis of the plans that accompanied the application.

### Main issues

3. The main issues are the effect of the proposed development firstly, on the character and appearance of the host building and the local area; and secondly, on the living conditions of the occupiers of 36 Forburg Road with particular regard to outlook, sense of enclosure and light.

### Reasons

#### *Character and appearance*

4. The appeal property is a 3-storey mid-terrace dwelling within the Northwold and Cazenove Conservation Area (CA), which is predominantly residential in character. To my mind, the CA derives its significance as a designated heritage

asset largely from the rich variety and the architectural quality of the Victorian terraced properties within it.

5. Like other properties in the same terrace, No 34 has been extended and externally altered at the rear. Specifically, there is a dormer extension on the main roof slope, which is not shown on the plans, and 2 flat roof ground floor additions: one to the side and the other to the rear of the 3-storey outrigger.
6. The proposal is a single-storey rear extension with materials to match those of the existing dwelling. It would partly infill the gap between and connect with the existing ground floor additions. The new addition would be shorter in length than an earlier scheme that was refused planning permission on application and at appeal. By amending the proposal in this way, the appellant considers that the previous concerns raised have been resolved.
7. By linking with the existing ground floor extensions, the culminative effect of the proposal would be to significantly add to the scale and mass of the original dwelling. The considerable expanse of flat roofs to the ground floor extensions, both existing and proposed, would visually accentuate their bulk. In doing so, the visual effect of the proposal and other extensions would be to visually dominate the rear elevation and further diminish the significance of the outrigger as a distinctive feature of the original building. The inclusion of a part hipped roof would also relate awkwardly with the flat roof to the new extension and the pitched roof of the main house. That the height of the new addition would be slightly lower than that of the ground floor extension to which it would attach on one side would also have a jarring effect. For all these reasons, the proposal would be a cumbersome enlargement of the appeal property. It would appear to have been 'tagged on' to the side and rear of No 34 in a way that would unduly compromise the form and general appearance of the building.
8. Although the proposal would not be evident from the road, it would be visible from the rear of the site and from the attached property, which is 36 Forburg Road. From these vantage points, the proposal would draw the eye as an unsympathetic and obtrusive development that would detract from the character and appearance of the local area. Consequently, the character and appearance of the CA would fail to be preserved. As such, the proposal does not overcome the objections raised in relation to the earlier appeal scheme.
9. Reference is made to rear extensions to other properties in the local area that have been approved on application or appeal with background details and some photographs provided. As most of these examples predate the adoption of the Hackney Local Plan 2033 (HLP), The London Plan (LP) and the National Planning Policy Framework (the Framework), they were assessed against different planning policies compared to the proposal before me. In other cases, the approved extensions differ to the development sought in their design, scale or in their relationship to the host building and so are not directly comparable. In any event, I have assessed the proposed development on its own merits.
10. The Framework states that when considering the impact of a proposal on the significance of a designated heritage asset, such as a conservation area, great weight should be given to the asset's conservation. Given that the effect of the proposal would be localised, the harm to the CA would be less than substantial. In those circumstances, the Framework states that the harm should be weighed against the public benefits including, where appropriate, securing its

optimum viable use. No such benefits have been put forward and none would outweigh the identified harm. Furthermore, there is no persuasive evidence that the optimum viable use of the property would be secured.

11. On the first main issue, I therefore conclude that the proposed development would cause significant harm to the character and appearance of the host building and the local area. As such, it is contrary to LP Policies D3 and HC1, HLP Policies LP1 and LP3 and the Council's Supplementary Planning Document, *Residential Extensions and Alterations* (SPD). These policies and guidance aim to ensure that development achieves high quality design; responds to local character; is compatible with the townscape; and safeguards designated heritage assets. There is also a conflict with the Framework with regard to protecting heritage assets and with the statutory duty. This duty requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas, which I have done.

#### *Living conditions*

12. The new extension would lengthen the sidewall of the existing rear extension along the common boundary with No 36. When seen from the back garden of No 36 and some of its rear windows, the hipped roof of the proposed extension would be visible projecting above the boundary fence. From these directions, the new roof would slope upwards and away from view. Nevertheless, it would rise to about 3-metres close to the shared boundary. A significant additional built form would therefore be introduced that would be evident from the rear of this neighbouring property.
13. Given the position, height and considerable depth of the proposal, there would be an intrusive and overly dominating aspect for the occupiers of No 36 and an unacceptable sense of enclosure. That would be most evident from the garden nearest to the main house. It would also be apparent to a lesser extent from its rear-facing basement windows, notwithstanding the presence of steps and planting that would partly obscure views of the new extension.
14. The appellant's report entitled *Analysis of Site Layout for Sunlight and Daylight*, dated May 2023, concludes that the loss of daylight to some rear windows of No 36 due to the proposal would be very small. It also notes that the loss of sunlight would be limited and confined to the rear garden of this neighbouring property. From the submitted evidence and based on my observations on site, I have no reason to disagree with these findings.
15. Nevertheless, I conclude on the second main issue that the proposed development would materially reduce the living conditions of the occupiers of No 36. As such, it conflicts with LP Policies D3 and D4 and HLP Policy LP2 insofar as they aim to safeguard residential amenity.
16. In reaching this conclusion, I have carefully considered each of the planning decisions involving other properties that the appellant considers relevant to this issue. However, to briefly reiterate, it is the specific relationship of the proposal to the rear of No 36 that is at issue here.

#### *Other matters*

17. Once complete, the proposal would provide additional living accommodation for the appellant's family. It would make efficient use of the available space within the site. That the Case Officer appeared to consider the proposal favourably

following a site visit and that planning permission was refused following the Council's receipt of the previous appeal decision are also noted. However, these matters do not outweigh the significant harm that I have identified in relation to the main issues.

### **Conclusion**

18. Overall, the proposed development would conflict with the development plan, when read as a whole. There are no material considerations, including the policies of the Framework, which indicate that the decision should be taken other than in accordance with the development plan.
19. For the reasons set out above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

*Gary Deane*

INSPECTOR