



Appeal Decision

Site visit made on 12 June 2024

by P B Jarvis BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2024

Appeal Ref: APP/U5360/W/23/3328648 121 Dalston Lane, London E8 1AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Thomas Barstow against the Council of the London Borough of Hackney.
 - The application Ref is 2023/0430.
 - The development proposed is excavation of basement, part single-storey, part two-storey rear extension; two-storey side extension; repairs to the front elevation and roof, replacement of front door and windows with double glazed units.
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Decision

1. The appeal is allowed and planning permission is granted for excavation of basement, part single-storey, part two-storey rear extension; two-storey side extension; repairs to the front elevation and roof, replacement of front door and windows with double glazed units, in accordance with the terms of application ref: 2023/0430, and 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 plans: A-09-000 (location and block plan), A-09-001 (existing plans), A-09-002 (existing plans and roof), A-09-005 (existing elevations), A-09-0010 (existing section A-A), and the following proposed plans (submitted 14/12/2023 under cover of letter of same date) A-09-100 (proposed site plan), A-09-101 (proposed plans level B1 and B2), A-09-102 (proposed plans level 00 & 01), A-09-103 (proposed roof plan), A-09-105 (proposed elevations), A-09-110 (proposed section A-A), A-09-111 (proposed section B-B), A-09-210 (terrace plan), A-09-211 (terrace elevation), A-09-220 (sustainability plan).
 - 3) Development shall not commence until samples/details of the materials to be used in the external surfaces of the development, to include facing bricks, roof slates, window and railing details, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
 - 4) Development shall not commence until a scheme for the investigation and assessment of, and provision and implementation as appropriate, of flood resilient and resistant construction details and measures for the site and the basement against surface water and groundwater flood risk during

construction and post construction has been submitted to and agreed, in writing, by the Local Planning Authority. The approved scheme shall be carried out in its entirety and constructed and completed in accordance with the approved plans in line with BS 8102:2022 code of practice for "protection of below ground structures against water ingress" before the development hereby permitted is occupied.

5) Construction works relating to the superstructure shall not commence until the following detailed schemes have been submitted to and approved in writing by the Local Planning Authority:

- Details of the green roof scheme including layout, cross sections (scale 1:20), and full specifications, to include a minimum substrate depth of 80mm, not including the vegetative mat, and detailed management and maintenance plan;
- Details of the air source heat pumps to include a noise assessment.

The development shall be carried out in accordance with the approved details and fully implemented before the development is first occupied.

6) The first-floor window in the north facing elevation shall be obscurely glazed and non-opening at all times.

Procedural Matter

2. Amended plans and were provided with this appeal which show a reduction in height and scale of the proposed rear extension and which retain part of the existing elevations of the rear addition with changes to external materials and fenestration and reinstatement of a natural slate roof. In my view these changes are not substantial compared to the originally submitted scheme. Furthermore, having regard to the nature of the changes and the timing of their submission, I do not consider that any party's interests have been prejudiced. I have therefore based my decision on them.

Main Issues

3. Having regard to the Council's putative reasons for refusal and the third party comments received, the following main issues are identified:

- The effect on the character and appearance of the area including the host building which is a Locally Listed Building (LLB) and the adjoining LLBs at Nos. 123-125 Dalston Lane and other nearby heritage assets.
- The effect on the living conditions of the occupiers of adjoining properties
- Whether sufficient information has been provided with regard to the proposed Air Source Heat Pumps (ASHP).

Reasons

4. The appeal site is a detached three storey Victorian property which is currently unoccupied and in a somewhat dilapidated state. It, and the adjoining semi-detached pair, Nos. 123 and 125, comprise a group of Locally Listed Buildings which are located on a bend in the road at its junction with Wayland Avenue. Although their address is Dalston Lane, their front elevations face west towards

the southern end of Wayland Avenue; however, due to the bend of the road at this point, the buildings are read as part of Dalston Lane in approaches from the west. Chalmar House, a Grade II listed building, adjoins to the east and the Graham Road and Mapledene Conservation Area (CA) lies some distance to the south separated by numbers 123 and 125 and Dalston Lane.

Character and appearance.

5. The appeal site being a locally listed building comprises a non-designated heritage asset (NDHA). Its significance is derived not only from features of the building itself but also its contribution towards the group of locally listed buildings including the adjoining properties nos. 123-125. These dwellings are of similar age, being late Georgian / early Victorian and are of very similar, though not identical, design. Both Nos. 123 and 125 have single storey rear outriggers whereas the three-storey rear 'tower' at the appeal site appears to be a later addition. Its different design and height appears to echo the scale of a building that was formerly located to the north, a jam factory, with which the dwelling is understood to have some connection.
6. The Council's description of the locally listed group refers, amongst other things, to their three-storey height with raised upper ground floor, London stock brick elevations with stucco inset porches and window surrounds, and tiled hipped roofs as well as links with a local builder and adjoining jam factory. The Appellant's Heritage Statement (HS) refers to the LLBs as having architectural interest due to their being classically proportioned late Regency villas, built as a group and designed to address the 'kink' of Dalston Lane, retaining historic character of the period with good quality exposed brickwork, moulded window architraves, Doric doorcase surrounds, glazing bar sash windows and pyramidal roofs.
7. I concur with the HS findings that the later rear outrigger at No. 121 is of more limited architectural interest but that it nonetheless contributes to the building's historic importance. I also agree that the buildings have high townscape value. Some historical value in respect of a connection with a local master builder and with the former adjoining factory adds to the interest of No. 121. Overall, given the limited value of the interior, it is the above features which are considered to primarily contribute to the significance of the locally listed building and the group of which it is a part.
8. The proposal would result in the removal of much of the later three storey outrigger and this would result in some loss of significance of the non-designated asset given its historical value. However, it is an addition that does not sit comfortably with the original building given its greater height and awkward connection with the original roof, nor is there any remaining visual connection with the adjoining site. Accordingly, its loss would be of limited harm to the significance of the building itself and to the group as a whole.
9. The proposed extensions, whilst modern, would retain part of the older brickwork elevations with new elevations finished in London buff bricks. The windows would be large single panes but would be read as part of the modern addition and otherwise sympathetic to the proportions of the windows of the existing dwelling. The reduced scale and height of the amended scheme compared to the original scheme would ensure appropriate subservience and the set-back position would enable the important historic features and form of the original dwelling to be fully appreciated.

10. The somewhat larger proportions of the single storey rear element would not detract from the host dwelling given its relatively lower level. The reinstatement of natural slates to the roof and other works to the external elevations would be a positive enhancement. The basement addition would enhance the accommodation with no external impact and a more practical internal arrangement for single family living to support the continued viable use of the dwelling would be created.
11. In the context of paragraph 209 of the National Planning Policy Framework (the Framework) in weighing proposals that affect a NDHA, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset. Overall, having regard to the above, the proposal, as amended, would be a complementary addition and I find that the significance of the NDHA would not be harmed, indeed it would be enhanced, and the significance of the group of LLBs would also be similarly enhanced.
12. The site also lies within the setting of Chalmar House, which is an attractive mid 19th century villa of high architectural, historic and artistic interest which adjoins to the east. Its features include stock brick with stucco frieze, cornice, sash windows with segmental bows, glazing bars, moulded architraves and square stuccoed porch. The appeal site and group of locally listed buildings contribute to its setting by reflecting its architectural quality and historical value through ownership links. Given my findings above, and taking account of the relationship between the buildings, the significance of this heritage asset would be conserved. The requirements of Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 are satisfied. In respect of the conservation area given the separation distances, I consider that there would be no impact on its significance.
13. Overall, the heritage assets would be conserved in a manner appropriate to their significance and as a result of the proposed improvements to the dwelling, the character and appearance of the area would be enhanced. The proposal therefore accords with Policies LP1, LP3 of the Hackney Local Plan LP33 (2020) (HLP) and Policies D4 and HC1 of The London Plan 2021 (LP) which seek development of the highest architectural and urban design quality that responds to local character and context, preserves or enhances the character and appearance of the area and conserves the significance of heritage assets. It also satisfies the Council's Residential Extensions and Alterations SPD 2009 (SPD) which seeks to ensure that rear extensions are subordinate to the principal building and reflect its form and materials.

Living conditions

14. The Council suggests that the proposed rear roof terrace could result in additional noise and disturbance but provides little detail regarding how this would arise. The terrace is small and sited away from the roof edges. It would be large enough to allow for persons to sit out but otherwise is of modest size. Given these factors, the use of the terrace is unlikely to result in an unacceptable level of noise and disturbance.
15. Neighbours have raised other concerns in respect of overlooking, overbearing nature of extension and loss of sunlight / daylight. In respect of overlooking, as noted above, the roof terrace would be sited away from the edges of the roof and, as such, would not result in an unacceptable loss of privacy. The proposed first floor 'corner' glazing could introduce some overlooking, however,

there is an existing window at this level facing towards this neighbouring property and the proposal would not result in additional unacceptable overlooking having regard to the current relationship. However, a new first floor glazed panel would be introduced in the northern elevation where none currently exists; this has the potential to result in a loss of privacy to the neighbouring properties. However, a condition could ensure that non-opening obscure glazing is used to prevent any overlooking.

16. The proposal is accompanied by light and shading plans that demonstrate that it would not result in additional unacceptable overshadowing of the properties to the north compared to the existing situation. The reduced depth and height of the extension would ensure that it would not result in an overbearing impact particularly given the separation distance.
17. Overall, the proposal would accord with LP33 Policy LP2 which seeks development that is appropriate to its location and designed to ensure that there are no significant adverse impacts on the amenity of occupiers and neighbours. It also satisfies the Council's SPD which contains design principles that seek to maintain privacy, daylight and environmental quality.

ASHP information

18. The amended plans indicate that the ASHP would be located in the rear corner of the garden with an indoor unit located internally within the basement. The Council has referred to the lack of information relating to these units, but this only appears to be in respect of the noise levels generated. I see no reason why this information cannot be secured via condition prior to installation, and this would ensure that there would be no harm to the amenity of adjoining occupiers and thus secure compliance with HLP Policy LP2 in this regard.

Other Matters

19. The sustainability plan confirms that the building would be upgraded to include internal insulation and finished with green roofs to the extension. A condition to secure details of how this would be maintained would be necessary to ensure it would appropriately mitigate climate change and contribute to sustainable urban drainage.
20. The Council has also suggested conditions to require accordance with the approved plans and the use of matching materials both of which I agree are necessary in the interests of clarity and visual amenity, though in the case of the latter, samples/details of the materials to be used should be submitted for approval to ensure they are appropriate in the interest of conserving the heritage assets. Further conditions to secure details to demonstrate that the development / basement will not adversely impact on surface water drainage and ground water levels are also necessary to address climate change and ensure appropriate mitigation measures.

Conclusion

21. Having regard to all the above, I conclude that the appeal should be allowed and planning permission granted.

P B Jarvis

INSPECTOR