
Appeal Decision

Site visit made on 9 December 2024

by **C Livingstone MA(SocSci) (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 February 2025

Appeal Ref: APP/U5360/W/24/3346955

56 Alkham Road, Hackney, London N16 6XF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ashok Aruna against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2023/2808.
 - The development proposed is excavation of basement with front and rear lightwells, together with single storey side and rear extension to create a new self-contained flat.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs in relation to this appeal was made by the appellant against the Council of the London Borough of Hackney. This application is the subject of a separate decision.

Preliminary Matters

3. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to comment further. Where references are made to paragraph numbers of the Framework, these are references to the most recent version.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the host property and area and the significance of the Northwold and Cazenove Conservation Area (CA) as a designated heritage asset through development within its setting;
 - whether the proposed development would provide acceptable living conditions for future occupants with regard to outlook;
 - whether the proposal would provide a suitable contribution for affordable housing in regard to local plan policy;
 - the effect of the proposal on the safe and efficient operation of the local highway network with regard to parking provision; and

- whether the proposal would encourage sustainable modes of transport with regard to cycle storage provision.

Reasons

Character and Appearance

5. The appeal property (No. 56) is a mid-terrace dwelling on Alkham Road, with a double height bay on the front elevation. The properties in the terrace are set back from the footway and have small front gardens. While the treatment of the garden is varied, some are planted, and some are hard surfaced the majority are not developed and do not contain built structures. Although there is inconsistency in terms of design, and material, the majority of front gardens are bound by a low boundary wall. The appeal property is in close proximity to Cazenove Road which is within the CA.
6. The significance of the CA is derived in part by the quality and variance of the late Victorian architecture, as well as large front gardens and street trees that give the area a spacious, verdant quality. The properties on Alkham Road, which includes No. 56 form part of the setting of the CA where the linear pattern of development and the uniformity of the traditional terraced properties, and their front gardens, form a backdrop and an attractive access route into the CA. In light of this the appeal property makes a positive contribution to the setting of the CA and enhances and emphasises its significant qualities.
7. The development would include the erection of a timber bin store, and based on the proposed ground floor plan, it would also form most of the boundary of the front garden. The store would be higher than both the existing boundary treatment and most other walls and fences in the immediate area. As such, the introduction of a higher boundary formed from the timber bin store would introduce an incongruous and prominent element within the established street scene. Further the position of No. 56 is such that the bin store would be close to the CA and visible from within it. As such the significance of the designated heritage asset would be harmed.
8. Paragraph 202 of the National Planning Policy Framework ('the Framework') explains that where, as I find in this case, the harm to the significance of the CA would be less than substantial, that harm should be weighed against the public benefits. The proposed development would provide a single unit of residential accommodation, there may also be economic benefits associated with construction. However, any specific public benefits there may be in this case, would be insufficient to outweigh the great weight I must attach to the harm I have identified to the designated heritage asset.
9. The proposal would have a harmful effect on the character and appearance of the host property, the area and the significance of the CA as a designated heritage asset through development within its setting. As such the proposal would be contrary to Policy D3 of the London Plan 2021 (LonP) and Policy LP1 of the Hackney A Place for Everyone Hackney Local Plan 2033 Strategic Planning Adopted July 2020 (HLP). These policies require that developments enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their scale and appearance; these policies also require that new developments preserve or enhance the significance of the historic environment and the setting of heritage assets.

Living Conditions

10. The main living area of the proposed basement flat would be served by bifold doors that would open out on to a lightwell with a sunken garden to the rear of the property. The sunken garden would be bound by a retaining wall that would be in close proximity to the rear opening. At ground level, wooden fencing would be positioned near the top of the lightwell, separating it from the remaining garden.
11. The close proximity of the rear opening to the retaining wall that forms the lightwell and the fencing above would result in an enclosed and poor outlook from within the main living area and result in an unsatisfactory internal living environment for future occupants. The Council has raised no concerns regarding other aspects of internal amenity standards for future occupants and this includes in regard to sunlight and daylight standards. Based on the evidence before me I have no reason to disagree with the Council on these matters. Notwithstanding this, a lack of harm in respect of other amenity standards forms a neutral factor in my assessment and does not overcome the harm identified in regard to outlook.
12. My attention has been drawn to the possibility that other basement properties are likely to have a similar arrangement in terms of outlook. However, no plans of specific examples were provided to demonstrate that basement properties with the same arrangement were approved under the current development plan.
13. For the reasons detailed above the proposed development would fail to provide acceptable living conditions for future occupants with regard to outlook. Therefore, the proposal is contrary to Policy D6 of the LonP and Policy LP2 of the HLP which require that housing development is of a high quality design, ensuring there is no significant adverse impact on the amenity of occupiers; amenity considerations include the impact of development on outlook.

Affordable Housing

14. Policy LP13 of the LP states that schemes of 1-9 units would be required to provide on-site provision, or payments in lieu, up to the equivalent of 50% of housing delivered as affordable housing, subject to viability. As the proposal would result in the creation of one additional residential unit, the S106 Planning Contributions Supplementary Planning Document 2020 (S106 SPD) specifies that a payment of £50,000 would be required in this instance.
15. The appellant does not consider that the proposal could viably contribute to affordable housing, and this is supported by a Financial Viability Assessment prepared by Affordable Housing 106 dated February 2024. However, the S106 SPD requires that the developer underwrites the costs of a Council commissioned assessment of financial information submitted in relation to development viability, in order for this evidence to be tested. Based on the evidence before me this has not taken place. Regardless of the reasons why, the requirements of Policy LP13 of the LP remain unfulfilled.
16. For the reasons detailed above it has not been fully demonstrated that the proposal would provide a suitable contribution to affordable housing. In this regard, the proposal would conflict with Policy H4 on the LonP Policy LP13 of the HLP, and the requirements set out within the S106 SPD.

Parking Provision

17. I noted on my site visit that opportunities for on-street parking are limited and controlled in order to allow the free flow of traffic. Whilst future occupants may not be dependent on private cars for day to day transport requirements, they might want to own and park a vehicle for those journeys that aren't possible or practical on public transport. This would exacerbate the level of parking stress in the area and encourage travel by private car which has a detrimental impact on air quality, personal health and well-being, and the environment.
18. In light of these impacts Policy LP45 of the HLP requires all new residential developments to be car free only allowing car parking in exceptional circumstances. There is no evidence before me to demonstrate that the proposal would be in accordance with any of the criteria listed. Therefore, a legal agreement would be required to prevent the proposed dwelling from being occupied by individuals that hold a parking permit.
19. In the absence of a completed legal agreement to secure the development as car free, I have no mechanism for securing the required restriction. Therefore, the proposal fails to comply with the requirements of Policy T6 of the LonP and Policy LP45 of the HLP which require that new residential development allows for car parking only in exceptional circumstances.

Cycle Parking

20. Hackney's cycle parking standards are defined in Appendix 2 of the HLP, and state that one cycle storage space would be required per dwelling up to 45sqm and two spaces would be required above 45sqm. The Council state that in this instance two cycle spaces would be required. The plans show that the basement flat would be served by only a single wall mounted cycle parking space. Therefore, future occupants would be required to carry a bike up and down the internal stairs that serve the basement, which would be impractical. Therefore, the proposed scheme would provide insufficient and unsuitable cycle storage. Based on the evidence before me, no suitable justification has been provided for the shortfall in provision. The property would have no private external space, at ground level, where a bicycle could be stored. Further, a lack of suitable cycle storage provision would limit the sustainable travel options of future occupants.
21. For the reasons detailed above the proposal would fail to encourage sustainable modes of transport with regard to cycle storage provision. Therefore, the scheme would be contrary to Policies T1, T4 and T5 of the LonP and Policies LP42, LP43 and Appendix 2 of the HLP, these policies require that all new development must promote sustainable transport; and facilitate travel by cycle through the provision of appropriate and sufficient cycle parking provision which is accessible and convenient.

Other Matters

22. I give little weight to planning permission Ref. 2017/3032, which proposed the excavation of a basement, served by lightwells, as the planning permission was approved prior to the adoption of the current development plan, was not implemented, and is no longer extant.

23. My attention has been drawn to an appeal that was allowed at 58 Alkham Road APP/U5360/D/22/3302342, which included basement excavation. However, this development did not result in the creation of a new self-contained unit. As such it does not form a direct comparison to the appeal before me.

Conclusion

24. For the reasons given above the appeal should be dismissed.

C Livingstone

INSPECTOR