



Appeal Decision

Site visit made on 23 March 2021

by **O S Woodward BA(Hons.) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 June 2021

Appeal Ref: APP/U5360/D/20/3244673

4 Spring Hill, Hackney, London E5 9BE

- 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 Glazer against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2019/3671, dated 10 October 2019, was refused by notice dated 4 December 2019.
 - The development proposed is the excavation of a basement with front and rear lightwells and railings, and erection of ground and first floor rear extensions
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Decision

1. The appeal is allowed, and planning permission is granted for the excavation of a basement with front and rear lightwells and railings, and erection of ground and first floor rear extensions at 4 Spring Hill, Hackney, London E5 9BE, in accordance with the terms of the application Ref 2019/3671, dated 10 October 2019, subject to the conditions set out in the attached annex.

Preliminary Matters

2. I have used the description of the proposed development used on the decision notice in favour of that of the original planning application form as it provides a more precise summary of development proposed.
3. A new London Plan was adopted in March 2021, replacing the previous version of the plan. Both parties have been provided with the opportunity to comment on the new Plan. I have taken the comments received into account and I have reflected the relevant new policies in my decision.

Main Issues

4. The main issues are:
 - whether or not the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to outlook and light; and,
 - the effect of the proposed development on biodiversity, with particular regard to the rear garden and trees.

Reasons

Living conditions

5. The proposed house would provide three storeys of accommodation. The primary living areas, including three of the bedrooms, the kitchen and the living room, would all be located at ground and first floor levels, within the existing building. A bedroom is proposed within the basement level, but this would have a window onto a lightwell to the front of the property. The Council does not object to the quality of this element of the proposed accommodation.
6. However, there would be limited light to, and outlook from, the rear of the proposed basement level and some of this element of the basement would have a low floor-to-ceiling height of 2.2m. That said, the majority would have a floor-to-ceiling height of 2.6m, in excess of policy standards, and there would be some, albeit limited, natural light and outlook from a rear lightwell. Importantly, this part of the basement would provide ancillary facilities, such as a playroom and workshop, to the primary living accommodation on the upper levels of the house. The light and outlook and overall standard of accommodation would be acceptable in that context.
7. The proposal would therefore provide satisfactory living conditions for future occupiers, particularly with regard to light and outlook, and complies with the relevant parts of Policy DM1 of the Hackney Development Management Local Plan, July 2015 (the LP) which, amongst other criteria, seeks adequate sunlight and daylight in developments. Although Policy 24 of the Core Strategy, November 2010 (the CS) is referenced on the decision notice, this does not include any guidance with regard to living conditions and is not therefore relevant to this main issue. The proposal also complies with Policy D3 of the London Plan which, amongst other criteria, seeks to achieve indoor environments that are comfortable and inviting for people to use.

Biodiversity

8. The site has a relatively small tree within a relatively small rear garden. There is limited other greenery in the garden. I have been provided with no substantive evidence that the tree, or the garden as a whole, provides significant biodiversity value. The appeal site is not within a conservation area and the tree is not the subject of a Tree Preservation Order. As such, it could be felled at any time without recourse to the Council.
9. The proposal re-provides a large part of the garden above the proposed basement extension, with soil proposed on top. The precise soil depth has not been definitively established. However, the submitted drawings indicate that a soil depth of at least 400mm could be achieved and the appellant has indicated a willingness to increase this if necessary. A condition could secure a suitable depth of soil, in agreement with the Council. It is possible that the achievable soil depth would not allow for a replacement tree, or trees, to be grown. However, the proposed soil would allow for other replacement planting, for example wildflowers or shrubs, sufficient to at least adequately replace, and potentially enhance, the currently limited biodiversity value of the existing garden.
10. The proposal would not therefore harm biodiversity and potentially provides the opportunity for enhancement. Consequently, it would comply with the relevant

parts of Policies 24 and 27 of the CS which, amongst other criteria, seek to protect and where possible enhance biodiversity. The proposal also complies with Policies G5 and G6 of the London Plan which, amongst other criteria, require urban greening as a fundamental element of design, and that developments manage impacts on biodiversity and where possible secure net biodiversity gain.

Conditions

11. In addition to the standard time limit condition, a condition specifying the relevant drawings provides certainty.
12. The Council suggested a number of conditions which I have considered and amended in the light of government guidance on the use of conditions in planning permissions.
13. The materials and landscaping conditions are necessary to preserve the character and appearance of the building and the surrounding area. The landscaping condition, where it pertains to the rear garden, is also necessary to ensure that suitable soil depth is provided to allow for replacement planting to adequately replace, and potentially enhance, the existing biodiversity value of the rear garden.
14. The proposed extension would cover a large proportion of the site and involves a significant basement element. Conditions are therefore necessary to ensure that any effect on groundwater is appropriately managed and to control surface water run-off, in order to minimise the risk of flooding.
15. The Council requested a condition to ensure that the proposed extension would be suitably designed and constructed with regard to its own internal flood resilience. However, this is not necessary because no substantive evidence has been provided that the extension is at risk in this regard and because this type of control can also be secured by Building Regulations.

Conclusion

16. For the reasons above, I conclude that the appeal be allowed.

O S Woodward

INSPECTOR

ANNEX: SCHEDULE OF PLANNING 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: 161 E01, E02, E03, E04, E05, E06, P01B, P02A, P03A, P04A, P05A, P06A, P07A, P08.
- 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) The extension hereby permitted shall not be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 5) In the event that groundwater is encountered during excavation, the extension hereby permitted shall not be occupied until drainage works to protect the accommodation from groundwater flooding have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 6) Prior to superstructure works, details of the proposed soft landscaping shall have been submitted to and approved in writing by the local planning authority. These details shall include, but not be limited to:
 - the specification and soil depth to the rear green roof so as to allow for adequate replacement planting;
 - the proposed landscaping to the front garden; and,
 - a scheme of maintenance.

The landscaping works shall be carried out in accordance with the approved details before any part of the extension is first occupied. The completed scheme shall be maintained in accordance with the approved scheme of maintenance.

=====END OF SCHEDULE=====