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# Appeal Decision

Site visit made on 26 July 2022

**by F Harrison BA(Hons) MA MRTPI**

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

**Decision date: 14 September 2022**

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**Appeal Ref: APP/Y5420/W/22/3293573**

**31A Riverside Road, Tottenham, London N15 6DA**

- 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 Naftali Gluck against the decision of the Council of the London Borough of Haringey.
  - The application Ref HGY/2021/1470, dated 19 April 2021, was refused by notice dated 23 August 2021.
  - The development proposed is demolition of existing single storey dwelling and construction of two storey plus basement to an end of terrace property (previously approved, ref: HGY/2015/1638).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The council contend that the previous permission at the appeal site has lapsed, and the appellant's submissions have not disputed this. As such I give limited weight to drawing JW696-111 which references 'existing approved dwelling' and the fallback position referenced in the submitted Design and Access Statement.

## Main Issues

3. The main issues are:
  - whether the living conditions of the future occupiers of the proposed development would be acceptable, with regard to daylight/sunlight and outlook in the basement; and
  - the effect of the proposed development on the structural stability of the building, neighbouring buildings and the highway.

## Reasons

### *Living Conditions*

4. The proposed basement floor plan shows a study to the front served by a light well incorporating what appears to be bi-fold doors onto a patio area. There is a large utility room to the rear which the appellant has said would have a full height glazed sliding door at the far end of the room served by a light well. The internal daylight assessment provided by the appellant relates only to the study and uses recognised BRE guidelines. It concludes that this room would receive ample daylight. Nevertheless, the council have concerns regarding

daylight/sunlight levels in the proposed utility room which they contend could be used as a habitable room by future occupiers. It would be a large, long room served by a small lightwell at one end.

5. Even if the basement floor plan has been designed to use the spaces with limited daylight levels as a bathroom and utility room, and there would be adequate habitable rooms with sufficient daylight, sunlight and outlook across the other two floors, no control mechanism is before me to prevent future occupiers using the large utility room as a potentially habitable space<sup>1</sup>.
6. While the lightwell serving the utility room would offer some natural light there is little clear evidence before me which demonstrate that adequate levels of daylight/sunlight in this room could be achieved. Given the length of the room and the limited size of the lightwell, it seems to me that users of the room would be likely to rely mostly on artificial light. In coming to this view, I have taken into account the orientation of the proposed building and that there may be an expectation that most dwellings have utility space.
7. The proposed glazed door in the utility room would allow access to the lightwell which provides some outlook. However, even if a 'hit and miss' wall is used as a means of enclosure to allow light to percolate through, the outlook from this room would be poor, with limited open aspect, looking as it would to a high wall in close proximity.
8. As such, for the reasons above, I conclude that the living conditions of the future occupiers of the proposed development would be unacceptable, with regard to daylight/sunlight and outlook in the basement. This is in conflict with Policy D6 of the London Plan (2021), Policy SP11 of the Haringey Local Plan Strategic Policies (2017) (Local Plan) and Policies DM1 and DM12 of the Haringey Development Management DPD (2017). These policies, amongst other things, require housing to be of a high quality design and development to have a high standard of amenity for its users.
9. The council also alleges a conflict with Policy D10 of the London Plan (2021) and Policies DM24 and DM26 of the Haringey Development Management DPD (2017) with regards to this matter. However, Policy DM10 refers to boroughs establishing policies in their development plans to address basement development and Policies DM24 and DM26 relate to flooding and drainage, and my attention has not been drawn to any words in these policies that are relevant to this main issue. The policies have therefore not been determinative in my decision.

### *Structural Stability*

10. There is disagreement about the position of the council's building control team. Nevertheless, the council have raised concerns regarding the suitability of the Basement Impact Assessment (BIA) in their schedule of reasons for refusal. I note that the council sets out in its appeal statement that when it determines a planning application, information received on a previous application or from another permission does not apply, unless resubmitted to them. However, in determining this appeal, I have before me, sufficient evidence to demonstrate that the proposed excavation of the basement would be possible without compromising structural stability.

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<sup>1</sup> This approach is reinforced by decisions APP/Y50420/W/20/325539 and APP/Y5420/D/17/3187960 for similar basement development, presented by the council.

11. The BIA discusses soil conditions and the consultants have confirmed that a trial hole has been carried out and soil investigations are not required. The proposed methods to be used in both the excavation of the basement and for its construction are set out in the Basement Method Construction Statement. This demonstrates that the structural stability of buildings and land above it can be maintained.
12. While the Construction Management Plan relates to the previously permitted scheme at the site which did not include a basement, it is reasonable to assume that the methods included within it would be at least broadly applicable to the appeal proposal. In any event, a construction management plan could be secured through condition. Lastly, I am satisfied that Thames Water Sewers appear to have no objection with regard to a basement development in this location, moreover it is confirmed there are no known sewers crossing the site.
13. Consequently, the available evidence does not indicate that the proposal would cause harm to the structural stability of the building, neighbouring buildings and the highway, and in this regard, it accords with the requirements of Policy SP11 of the Haringey Local Plan (2017) and Policy DM18 of the Haringey Development Management DPD (2017). In summary, these policies seek basement development that will not adversely affect the structural stability of the application building, neighbouring buildings and other infrastructure, and should be of the highest standard of design.

### **Planning Balance and Conclusion**

14. While I have found no harm in relation to structural stability matters, the living conditions of future occupiers of the proposed development would be unacceptable with regard to daylight/sunlight and outlook in the basement. I afford this harm, and the resulting conflict with the relevant policies of the development plan, significant weight.
15. The evidence contained within the initial appeal submissions indicated that the council's delivery of housing was substantially below its housing target and that paragraph 11(d) of the National Planning Policy Framework (2021) was therefore engaged. However, during the course of the appeal, the council provided an update in relation to this, setting out that it is no longer subject to the presumption in favour of sustainable development given that the latest housing delivery test measurement is at or above the relevant threshold. On this basis and with little substantive evidence to indicate otherwise, paragraph 11(d) is therefore no longer applicable in this case.
16. The council are required to apply a buffer to their supply of housing land. However, as the proposal is for the demolition of a single storey existing dwelling and replacement with a two-storey dwelling with basement, there would be no net gain in the provision of homes in the borough. The appeal proposal would therefore not contribute to the supply and delivery of housing in the area, and as such the provision of housing does not weigh in favour of the proposal.
17. I have had regard to the signatures from local residents confirming their support for the proposal, that the design concept is said to be an appropriate part of the evolution of the character and appearance of the area, and the other areas of common ground highlighted in the appellant's appeal submissions. However, neither these matters nor the benefits of the scheme,

including the additional space that it would provide, outweigh the harm I have identified or the conflict with the development plan.

18. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

*F Harrison*

INSPECTOR