The Planning Inspectorate

Appeal Decision

Site visit made on 19 March 2019

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th April 2019

Appeal Ref: APP/U5360/W/18/3218759
46-48 Firsby Road, Hackney, London N16 6QA

- 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 Isaac Schwartz against the decision of the Council of the London Borough of Hackney.
- The application Ref 2018/2508, dated 8 July 2018, was refused by notice dated 6 November 2018.
- The development is described as retention of timber trellis at the rear of the site.

Decision

1. The appeal is allowed and planning permission is granted for ground floor rear timber frame at 46-48 Firsby Road, Hackney, London N16 6QA in accordance with the terms of the application, Ref 2018/2508, dated 8 July 2018, subject to the following conditions:

   1) The development hereby permitted shall be carried out in accordance with the following submitted plans: 335–L&B, 335-E01A and 335-P01A.

Procedural Matters

2. The planning application form states that works started on the development the subject of the application on 17 May 2018 and were completed by 25 May 2018. At the time of my visit a timber framed structure was in situ at the site. However, as I cannot be certain that what has been constructed on site is wholly consistent with the submitted details, I have assessed the development as shown on the plans submitted to and determined by the Council.

3. The address stated on the planning application form and decision notice is 48 Firsby Road. However, the submitted location plan indicates that the appeal site also includes 46 Firsby Road. I have therefore referred to both numbers in the heading above as this appears to more accurately reflect the site address.

4. The description of development used in the heading above is that used on the planning application form. However, in allowing the appeal I have altered the description to that used by the Council on its decision notice as this more accurately describes the development. However, I have removed reference to the term retention as that is not a description of development.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the area.

Reasons

6. The appeal site comprises a two storey, former semi-detached property in use as a Synagogue and flats. There is a modest sized, paved yard area to the rear of the property either accessed via the building or via a path to the side of the building. It appears from the evidence that the yard area is for use by the Synagogue and occupiers of the flats as an amenity area and it is mainly enclosed by a brick boundary wall. The site is located in a predominantly residential area and the rear yard area adjoins the garden boundaries of nearby residential properties.

7. The timber frame is a "pergola type" structure and comprises a series of timber posts evenly spaced out across the yard area with horizontal timber posts above forming a frame. It is an open structure and covers the entire rear yard area. The frame is slightly higher than the boundary wall and is mounted onto vertical fence panels which are on top of the wall. I understand from the evidence that the frame would be used occasionally by the Synagogue to support temporary sheets and other materials used in Jewish religious ceremonies and rituals. At other times the yard area would be available for use by occupiers of the flats.

8. The timber frame is reasonably small in scale and as stated, appears as an open "pergola type" structure. Its position at the rear of the site, largely contained within the existing boundary wall means that it is not visually prominent, and it is not visible other than from surrounding properties and gardens. Whilst such structures may not be characteristic of the area, the frame is domestic in scale and is not incompatible with the character of the area, disruptive or obtrusive and given its scale and context I do not consider it to be of a poor design.

9. Taking the above matters into consideration, I conclude that the development does not have an adverse effect on the character and appearance of the area. It therefore accords with policies 7.4 and 7.6 of the London Plan March 2016, Policy 24 of the Hackney Local Development Framework Core Strategy adopted November 2010, Policy DM1 of the Hackney Local Plan Development Management Local Plan adopted July 2015 and relevant guidance contained within the Hackney Supplementary Planning Document Residential Extensions and Alterations approved April 2009. These policies and this guidance require, amongst other things, development to be of a high quality design and to have regard to the character and appearance of the host building and surrounding area.

Other Matters

10. In reaching my decision I have had regard to a number of other issues raised by an interested party. The fact that the development was constructed before a planning application was made is not a reason to withhold planning permission as the planning system does allow for the submission of retrospective applications. The development before me is a timber frame and does not include breeze blocks or an asphalt roof. Any alleged damage caused

by the development to the boundary wall is a matter for the affected landowners.

11. Whilst I note that concerns have been raised in relation to the impact of the use of the rear yard in connection with the Synagogue in terms of noise and light, this appeal relates to the erection of a timber frame and not to the use of the site. Therefore, the effect of the use on the living conditions of nearby occupiers is not a matter for me. The Council considered that the impact of the timber frame on living conditions to be acceptable and I have seen no evidence to lead me to a different conclusion on this issue. There is also no evidence to suggest that the development would create a fire hazard or be unsafe in any other way.

Conclusion

12. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR