
Appeal Decision

Site visit made on 17 July 2019

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2019

Appeal Ref: APP/U5360/W/19/3228928

Flat A, 8, Dunsmure Road, Hackney, London N16 5PW

- 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 Abraham Rosenberg against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2018/2702, dated 23 July 2018, was refused by notice dated 18 March 2019.
 - The development proposed is the erection of a none habitable store, home office and playroom below a concrete garden deck.
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Decision

1. The appeal is dismissed

Preliminary Matters

2. I have taken the description of the development from the application form. However, I have altered the word 'retention' to 'erection' so that the proposal relates to an act of development. I consider that the description together with the plans adequately describe the development.
3. I noted on my site visit that the concrete deck has been constructed but that the development is not complete.

Main Issues

4. The main issues are the effect of the development on the character and appearance of the area and the living conditions of neighbouring residents having regard to privacy.

Reasons

Character and Appearance

5. Dunsmure Road comprises a range of mainly terraced properties and forms part of an area of similar residential streets. The appeal property occupies the lower ground and ground floor of a four-storey mid terraced house divided into flats. It is bordered by number 6 and 10 Dunsmure Road on either side and the garden to 9 Colberg Place to the rear.
6. During my site visit I noted the oversailing extension at No.6 Dunsmure Road referred to by the appellant. I also noted that number 6 has a paved surface, outbuilding and fenced boundaries. However, in general I saw that

the surrounding gardens are lower and 'softer' amenity areas with a range of trees and shrubs. In contrast the elevated deck is an unrelieved hard surface set above adjacent levels requiring substantial boundary treatment to adequately enclose and separate the space. Consequently, I find that the combination of the deck height, its solid appearance, materials and enclosing boundary treatment is a discordant feature which detracts from the area's prevailing character.

7. The site is not visible from public vantage points, being in a run of gardens set to the rear of houses. Nonetheless, the harmful effects of the structure are apparent from several different properties and I can find nothing in local and national planning policy to suggest that the requirement for good design only applies to development that is visible from within the public realm.
8. I conclude on the first main issue that the raised garden deck unacceptably harms the character and appearance of the surrounding area. Accordingly, the scheme would conflict with Policies 7.4 and 7.6 of The London Plan 2016 which, requires development to be of the highest quality both internally and externally, Policy 24 of the Hackney Local Development Framework Core Strategy 2010, Policy DM1 of the Hackney Development Management Local Plan 2015 and the Hackney Residential Extensions and Alterations SPD 2009 which requires high quality design that responds to its surroundings.

Living Conditions

9. The deck is above the level of the adjacent gardens. It sits immediately next to the garden areas of properties on either side. The scheme proposes various measures to retrospectively protect the adjacent properties from being overlooked. These would include a fence of 1200mm set in from the boundary to number 10 Dunsmure Road and a new wall on top of the existing wall to 6 Dunsmure Road.
10. I noted on site that due to the deck being raised above the adjacent levels there is clear sight into each property's amenity area. The potential to overlook would give rise to a loss of privacy and would not be resolved by the full implementation of the proposed boundary measures. I therefore conclude that the development would have a harmful effect on the living conditions of the occupants of 6 and 10 Dunsmure Road. Consequently, the development would be contrary to Policy 7.6 of the London plan 2016, Policy 24 of the Hackney Local Development Framework Core Strategy 2010, Policy DM2 of the Hackney Development Management Local Plan 2015 and the Hackney Residential Extensions and Alterations SPD 2009 which seek to protect residential amenity.

Other Matters

11. I have had regard to the spatial needs of the Charedi community. However, in this instance I do not find that these needs outweigh the harm I have found to the character and appearance of the area and the living conditions of neighbouring occupants.

Conclusion

12. For the reasons given above, and having considered all matters raised, I conclude that the appeal should be dismissed.

Diane Cragg

Inspector