



Appeal Decision

Site visit made on 2 October 2019

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2019

Appeal Ref: APP/U5360/C/18/3214967

212-216 Kingsland Road, Hackney, London E2 8AX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Fatih Akcay of the UK Turkish Islamic Cultural Centre Trust against an enforcement notice issued by the Council of the London Borough of Hackney.
 - The enforcement notice was issued on 17 September 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the installation of 2 replacement windows at first floor level to the eastern elevation of the property.
 - The requirements of the notice are:
 - Remove the 2 unauthorised windows at first floor level on the eastern elevation;
 - Restore the eastern elevation to the fenestration and condition before the unauthorised development was carried out;
 - Make good all damage to the property resulting from the removal of the unauthorised works and restore the relevant parts of the property to the condition they were before the unauthorised extensions were constructed;
 - Remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the installation of 2 replacement windows at first floor level to the eastern elevation of the property on land at 212-216 Kingsland Road, Hackney, London E2 8AX referred to in the notice, subject to the following planning condition:
 - i) The windows hereby approved shall remain obscure glazed to the current degree in their bottom halves and entirely fixed-closed and non-openable.

Ground (a) appeal and the Deemed Planning Application

2. The appeal site is a large building several storeys high within a heavily built up part of north London. A large proportion of the building is a place of worship. However, there is some separation of other uses including the flat within which the windows have been installed on the eastern elevation. One of the windows serves a bedroom and the other is in the end wall of a corridor. A narrow alleyway separates the flat from another large building which includes flats.

Main Issues

3. The main issue is the effect of the windows on living conditions of the neighbouring flats with respect to privacy.

Reasons

4. There is no dispute that before the current windows were inserted, there were windows in the same positions. The appellant states that the previous windows were the same width and clear glazed but the new windows are longer with obscure glazing in the bottom halves. The Council's photographic evidence in comparison with historic 'Google' imagery does show that the replacement windows are longer in profile and were originally openable. At my visit, I could see that the pair of similar windows have now been fixed closed by means of a single screw through the bottom of each frame. They are also both obscure glazed below the central glazing bar.
5. Through the window serving the bedroom, I could see the vague outline of the windows in the flat on the opposite side of the alleyway through the lower obscure section. Those windows are not directly in line with the unauthorised window. There would be no direct inter-visibility between the windows given the degree they are off-set from each other and also because of the high degree of obscurity of the lower glazing. Through the clear upper light I could see up to the higher windows in the opposite building. This does not provide a clear view however into that building due to the height difference.
6. With only blurred views due to the type of glazing and a lack of clarity due to the relative positions of the clear glazing, neither the occupants of the appeal site nor those within the opposite flats suffer from harmful additional overlooking due the new bedroom window. There may be a small degree of perceived overlooking when lights are turned-on within either property but that would not be harmful to the living conditions in either set of properties.
7. The window within the wall at the end of the corridor faces directly towards a blank wall with any views towards the windows opposite being at even more angled. Due to this, the relative difference in heights between the windows, and with the obscure glazing in place, again this does not cause additional harmful overlooking between the flats.
8. The windows would retain privacy and a high standards of amenity for neighbouring residents. Given the additional size of the windows, in order to secure that the effects are satisfactory, it is necessary to attach a planning condition to retain the current obscurity and fixing of the windows. In relation to the main issue, the windows have an acceptable effect on living conditions of the neighbouring flats. This would not conflict with policies 7.4 and 7.6 of the London Plan 2015, policy 24 of the Hackney Development plan 2010 and policies DM1 and DM2 of the Development Management Local Plan 2015.

Conclusion

9. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission should be granted. The appeal on grounds (f) and (g) do not therefore need to be considered.

A Harwood
INSPECTOR