
Appeal Decision

Site visit made on 2 December 2019

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 17 December 2019

Appeal Ref: APP/U5360/W/19/3237621

Flat 1, 50 Shacklewell Lane, Hackney, London E8 2EY

- 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 Ms Poskitt and Ms Stewart against the decision of the Council of the London Borough of Hackney.
 - The application Ref: 2019/0982, dated 15 March 2019, was refused by notice dated 24 July 2019.
 - The development is the retention of the existing outbuilding for use as an ancillary granny annexe.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On my site visit, I noted that the works had been carried out in accordance with the submitted plans. I have therefore proceeded on this basis.

Main Issues

3. The main issues are:
 - the effect of the development on the living conditions of the occupiers of adjoining properties, with particular regard to privacy; and
 - whether the development represents a self-contained dwelling and, if so, whether appropriate living conditions could be secured for the occupiers of the development.

Reasons

Living conditions

4. The building is located to the rear of the site and features a predominantly glazed front elevation. The design of the annexe also features an overhang of the roof which projects in front of the glazed section. The boundaries of the side are marked by wooden fences. The building is accessed via the garden that is shared with the occupiers of the apartment located on the lower floors of 50 Shacklewell Avenue (known as Flat 1).
5. Given that the development involved the creation of a building containing a number of facilities, it can therefore be reasonably anticipated that it would be occupied on a regular basis.

6. Whilst some screening is available from the boundary fences, the development is in proximity to the neighbouring properties. This causes concern as views into the windows of these dwellings are possible from the development, which contributes to a loss of privacy. This is of note owing to the fact that as the annexe contains sleeping accommodation and facilities to prepare food (albeit on a limited basis), residents of the building could potentially be within the building for notable periods of time.
7. This situation is exacerbated by the fact that the front elevation of the annexe features a substantial amount of glazing. Therefore, the number and scope of views from within the annexe are significant.
8. Given the proximity of the annexe to the rear elevations of the adjoining properties, the privacy of the occupiers of neighbouring properties is significantly compromised as there is little landscaping to diffuse views. In addition, views over the boundary treatment are possible.
9. I have had regard to the screening offered by the overhang of the building's roof. Whilst this does reduce the number of views towards the uppermost floors of the adjoining properties, the overall screening effect is partial and does not overcome the aforementioned concerns.
10. I have noted the appellant's suggestion that a condition could be imposed requiring that the building be fitted with obscure glazed windows. Whilst this would undoubtedly reduce the level of views towards neighbouring properties, it would also significantly reduce the outlook available to occupiers of the building. This is particularly important as the only other window is to the rear and high level.
11. Although residents have access to the communal areas of the apartment, it is possible that residents might also wish to use the building for significant periods of time owing to the privacy that it offers. As such, the lack of appropriate outlook arising from such a condition is notable and would prevent acceptable living conditions being secured for the occupiers of the building.
12. On my site visit, I noted that blinds had been installed within the building, however, it would be possible to ensure that these are continually covering the windows to minimise the loss of privacy to surrounding properties. Even if this were possible, it would prevent satisfactory outlook being secured for occupiers of the building.
13. I acknowledge that permission has previously been granted for an outbuilding at the property. However, given that the development before me features sleeping accommodation, washing facilities and limited cooking facilities, the development has the potential to be used in an intensive manner. This differs from an outbuilding where the use might not be as constant.
14. I have had regard to outbuildings that are present within some of the gardens of adjoining properties. However, I do not appear to have any evidence before me that is indicative of these outbuildings being used as annexes and providing residential accommodation. Therefore, they are unlikely to be used with the same level of intensity as the development before me. In consequence, their presence does not allow me to disregard my previous concern.
15. Whilst the building is accessed via the garden of the apartment, I am conscious that as a garden space it might be readily used by the occupiers of the

apartment. This might involve people moving around the space, carrying out tasks or general recreation. In consequence, people traversing the space to enter the building is unlikely to represent a significant change. Therefore this, by itself, does not lead to a notable loss of privacy for the occupiers of adjoining properties. However, this does not outweigh the harm as previously identified.

16. I therefore conclude that the development has an adverse effect on the occupiers of neighbouring properties arising from a loss of privacy. The development, in this regard, fails to comply with the requirements of Policies 7.4 and 7.6 of the London Plan (2016) (the London Plan); Policy 24 of the Hackney Core Strategy (2010) (the Core Strategy); Policy DM2 of the Hackney Development Management Local Plan (2015) (the Local Plan); and the Housing Supplementary Planning Document (the SPD). These, amongst other matters, seek to ensure that developments have regard to the pattern and grain of existing spaces; not cause harm to surrounding land and buildings; respect the character of the surrounding environment; and not adversely effect visual privacy.

Whether a self-contained dwelling

17. The building is of a single storey and located within the garden to the rear of No. 50. This building has been subdivided into apartments, with the dwelling on the lower two floors having access to the rear garden. The surrounding properties are of a similar scale and used for residential purposes.
18. By reason of the layout of the property, access to the annexe is via the existing apartment only. This has created a sense of connection between the occupiers of the apartment and the annexe as residents would naturally be known to one another. Furthermore, the evidence before me is indicative that the occupier of the annexe shares facilities in the apartment with its occupiers. This reinforces a sense that the occupiers of the two buildings form one, conjoined household.
19. In addition, I have noted that the cooking facilities within the annexe are comparatively limited. At the time of my site visit, these comprised a small hob and small sink. This is a notably lower provision than what might be expected within a self-contained dwelling. This provides further evidence that the building is an annexe that is reliant upon the existing apartment.
20. It is not possible to gain independent access to the annexe as the building is located extremely close to the rear boundary of the site and encompasses the entire width of the property. Furthermore, the length of the garden is reflected on the adjoining properties, which means that access into the garden or annexe would not be possible through one of the side boundaries.
21. I have also noted that the occupiers of the annexe share the garden with the occupiers of the apartment and that no-subdivision of this space has taken place. Accordingly, the residents of both buildings are free to move around the garden space and use the various areas.
22. As a result, I am of the view that the outbuilding does not form a separate unit of accommodation. In consequence, the fact that residents of the annexe would need to utilise the apartment to access the outbuilding would not cause significant harm to the living conditions of residents as all would be living as one household and be well known to one another.

23. Although I accept that a need for the development has not been demonstrated, I have not been directed towards a policy that requires this. Furthermore, for the reasons set out above, I am of the view that the development is being occupied on an ancillary basis.
24. I therefore conclude that the development does not form a self-contained dwelling and that, accordingly, appropriate living conditions exist for the occupiers of the development. The development, in this regard, complies with the requirements of Policy 3.5 of the London Plan; Policy 24 of the Core Strategy; Policy DM1 of the Local Plan and the SPD. These, amongst other matters, seek to ensure that housing developments are of the highest internal and external quality; ensure a good and optimum layout of the site; and does not result in a cramped layout.

Other Matters

25. I have given the personal circumstances of the appellant careful consideration. However, I am mindful that, in general, planning decisions regarding land use need to be made in the public interest. Furthermore, I have not found any harm arising from the proposed development on the lower storeys of the appeal site. Therefore, I find that that these personal circumstances do not outweigh the unacceptable nature of the development.
26. The site is within the St Marks Conservation Area and adjacent to a Listed Building. However, the evidence before me is indicative that the development does not harm the character, appearance and setting of these heritage assets. Whilst I have no reason to disagree with this view, it does not overcome the harm as previously identified.

Conclusion

27. Whilst I have found that the development does not represent a self-contained dwelling and that the occupiers of the annexe benefit from appropriate living conditions, I have found that the development causes a loss of privacy to the occupiers of neighbouring properties. According, for the proceeding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR