



Appeal Decision

Site visit made on 1 September 2020 by Thomas Courtney BA(Hons) MA

Decision by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2020

Appeal Ref: APP/U5360/D/20/3251298

24 Sutton Place, Hackney, London, E9 6EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Mark Roe against the decision of the London Borough of Hackney Council.
 - The application Ref 2020/0317 dated 8 January 2020 was refused by notice dated 20 March 2020.
 - The application sought planning permission for alterations to rear elevation glazing without complying with a condition attached to planning permission Ref 2015/1716, dated 9 July 2015.
 - The condition in dispute is No. 3 which states that: *The obscured glazing hereby approved shall be retained in perpetuity once installed.*
 - The reason given for the condition is: *In the interests of protecting neighbour's amenity.*
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Mark Roe against the London Borough of Hackney Council. This application is the subject of a separate decision.

Appeal Procedure

3. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

4. The new Hackney Local Plan 2033 (the 'Local Plan') was adopted in July 2020 after the submission of this appeal. It replaces the Hackney Development Management Local Plan 2015 and the Hackney Core Strategy 2010. The Council have provided the newly adopted Local Plan policy that is relevant to this proposal which is broadly similar to the superseded policies contained within the decision notice and against which the proposal was initially assessed.

Main Issue

5. The main issue in this case is the effect of removing the disputed condition on the living conditions of neighbouring occupiers with regard to privacy.

Reasons for the Recommendation

6. The appeal site comprises a four-storey mid-terrace property located on the northern side of Sutton Place. The rear first and second floor windows have 1.8m high obscured glass and clear glass above. There is also an obscured glass balustrade forming part of a Juliet balcony on the second floor. The rear elevation of the appeal property is oriented towards the rear of the terraced properties on Sutton Square which are two-storey in height.
7. It is necessary to consider whether the disputed planning condition meets the guidance for planning conditions set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). The condition in dispute relates to the obscured glazing of the rear windows of the appeal property and the appeal seeks to allow for the removal of the obscure glazing from the first and second floor windows as well as the reduction in height of the second-floor screen.
8. Whilst the appellant asserts that the development would ensure a satisfactory level of privacy for neighbouring occupiers, it would enable direct views towards the rear windows and back gardens of the properties on Sutton Square. Considering the size of the appeal property's windows, the height of the second-floor windows and balustrade, and the small distance between the appeal site and the neighbouring properties directly to the north, I find that the removal of the obscure glazing would allow for unacceptable levels of overlooking which would lead to a loss of privacy for the neighbouring occupiers.
9. Furthermore, whilst I accept that some overlooking in densely built-up areas with limited back-to-back distances is to be expected, in this instance, the extent of No. 24's glazing, the height difference between the appeal building and the terrace to the north on Sutton Square as well as the minimal distance between the two buildings creates an unfavourable relationship which does not lend well to the removal of the obscure glazing and screen.
10. My attention was drawn to nearby developments such as the first-floor dormer approved at 19 Sutton Square which would face the rear of the appeal property. I acknowledge that there would be some loss of privacy for the current occupiers, and therefore a perceived inequality in the application of policy. However, the extent of glazing on the appeal property, with wide and near full-height windows, is significantly larger than that approved at No 19, and on two floors, so would allow for a greater opportunity for overlooking. Moreover, the obscure glazing at the appeal property maintains privacy for the appellant.
11. Turning to the appellant's comments on mental health and the present living environment. I acknowledge the obscure glazed windows are not ideal. However, the current occupiers would still enjoy a spacious property, outdoor amenity space and a pleasant outlook from the top floor as well as views from the southern facing windows. The windows are also only partially obscured allowing for sky views and an adequate amount of light penetration. I am thus of the opinion that the living environment of the appellant is not so unacceptable that the proposal should be allowed. Indeed, I note the other neighbouring properties in Sutton Place all have obscure glazing on their rear windows.

12. I therefore find the disputed planning condition is necessary in that it would ensure the privacy of neighbouring occupiers and does not conflict with paragraph 55 of the NPPF which seeks to ensure that planning conditions are only imposed where they are necessary and reasonable. Without the condition, the development would conflict with Policy LP2 of the Local Plan which seeks to ensure that proposals do not lead to significant adverse impacts on the amenity of occupiers and neighbours, as well as Policy 7.6 of the London Plan which seeks to ensure proposals do not cause unacceptable harm to the amenity of surrounding residential buildings, in relation to privacy. I have also had regard to the Hackney Residential Extensions and Alterations Supplementary Planning Document (2009) which seeks the same. I have not found that Policy 7.4 of the London Plan is directly relevant to the proposal before me as it relates more specifically to local character.
13. The lowering in height of the second-floor glazed screen would allow overlooking to the north when the sliding door is opened. I therefore would not recommend a split-decision in this case.

Recommendation

14. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR