
Appeal Decisions

Site visit made on 21 October 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 November 2020

Appeal A - Ref: APP/U5360/W/20/3247100

Rear of 69 Kenworthy Road, Hackney, London, E9 5RB.

- 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 RAA Development Group Ltd. against the decision of the Council of the London Borough of Hackney.
 - The application Ref. 2019/1143, dated 26 March 2019, was refused by notice dated 21 August 2019.
 - The development proposed is erection of four-storey building to provide 9 residential units (1 x 1 bed, 5 x 2 bed and 3 x 3 bed) with associated outdoor amenity space, cycle and refuse storage; changes to boundary treatment and landscaping.
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Appeal B - Ref: APP/U5360/W/20/3254200

Land adj. 69 Kenworthy Road, Hackney, London, E9 5RB.

- 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 RAA Development Group Ltd. against the decision of the Council of the London Borough of Hackney.
 - The application Ref. 2019/3395, dated 15 September 2019, was refused by notice dated 16 December 2019.
 - The development proposed is the erection of a three-storey building to provide one self-contained residential unit and refuse and cycle storage.
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Decisions

Appeal A - Ref: APP/U5360/W/20/3247100

1. The appeal is dismissed.

Appeal B - Ref: APP/U5360/W/20/3254200

2. The appeal is dismissed.

Preliminary matters

3. At the site visit I considered the development proposed from the rear garden of No.2 Bush Berry Road at the request of the occupier.
4. A draft Planning Obligation had been submitted with the appeal documents. In general terms this seeks to ensure that the development is carried out under the Considerate Constructors Scheme and would result in a Car Free Development.

Main Issues

5. In both appeals a main issue is the effect of the proposal on the character and appearance of the area, whereas in Appeal B the effect on the general living conditions of the occupiers of the new development is an additional main issue.

Reasons

Background

6. The appeal site in Appeal A is in the shape of a cocktail glass where the base is a gap in a frontage of Victorian housing along Kenworthy Road which leads via a narrow access to a wider area at the rear leading up to an embankment for an overground railway line. This area is said to have been a storage yard with dilapidated buildings but permission was granted in 2018 for a three storey building with 8 flats and this scheme is being built. The proposal in appeal A is to make alterations to the building under construction and add a fourth floor comprising a 9th unit.
7. The appeal site in Appeal B is the front part of the site. It is proposed to close off the access to vehicular traffic and erect a three storey building where the ground floor would accommodate a passageway through to the rear for pedestrians as well as a bin store and utility space. The upper two floors would be a dwelling with the 2nd floor set back slightly from the frontage.

Effect on character and appearance

Appeal A scheme

8. The permitted scheme of 8 flats is in the process of being constructed and is substantially complete. The building has a stepped up form with the upper floors being set in from the one below. The proposed ninth flat would continue this form with a fourth floor.
9. Although there is a variety of building forms and heights in the wider locality, the space formed by the railway embankment and the rear of the buildings in Kenworthy Road and Bush Berry Road is generally enclosed. Visually it reads as a separate space. The existing residential properties here tend to be two storeys in height, some with accommodation in the roof space. The new three storey apartment block already exceeds the roof ridge height of these adjacent buildings as shown on the plan of the west elevation.
10. Taking account of the set-back position of the additional flat and the slightly increased distance to the existing properties, the additional height and building bulk of a further storey would have an imposing and visually dominant effect on the rear aspects and gardens of these existing properties. This dominating impact would be accentuated by the overlooking that would arise from the festination and external terrace at 4th floor level.
11. The proposal would be harmful to the character and context of this backland site and would not result in a positive visual relationship with the existing properties contrary to the requirements of Policies 7.4 and 7.6 of London Plan; Policy 24 of the Core Strategy and Policy DM1 of the Development Management Local Plan.

Appeal B scheme

12. This proposal is based on the filling-in of the existing gap in the site frontage with the erection of a three storey building where the ground floor would accommodate a pedestrian passageway through to the new block of apartments to the rear. The existing gap is formed by the ends of the adjacent terraces of Victorian houses where the terrace to the north-east has a hipped roof end and there is a gable end to the south-east one. While the Design and Access Statement shows that the two storey building has appropriate design and materials to fit in with the Victorian form, I have concerns about the loss of the gap and the appearance of the second floor roof element in the street scene.
13. The adjacent hipped roof portrays an end to the terrace and there is a reasonable space to the next gable end to make the different architectural styles visually distinct. Filling in most of the gap of the appeal site would lose this visual separation and the overall design of the new building would sit awkwardly in the street scene. Moreover, while the second floor has been designed to have a dark form to fit in with the general roof scape, the angular design and set back of the structure would be visually prominent and imposing when seen against the traditional slate clad roof slopes.
14. I find that the proposed building would not fit comfortably in the street scene and would materially detract from the character and appearance of the area rather than have a positive effect. This impact would be contrary to the same provisions of the development plan referred to above.

Appeal B – effect on living conditions

15. I read the Council's objections under this issue to be the effect on both the new dwelling proposed under Appeal B as well as the 8 flats being built on the rear part of the overall site. The access through the passageway would be the sole pedestrian access to the development and would lead past the refuse bin stores and utilities cupboard for the other flats. The pedestrian undercroft would not be overlooked or overseen from windows in the proposed flat or neighbouring properties.
16. Even though the layout plan shows that the pedestrian access would be gated to the public, I agree with the Council that the form of the passageway is unlikely to result in an inviting entranceway that makes a good residential environment that is properly visible in the interests of safety and security. I find that the form of development proposed would not provide a satisfactory residential environment for the future occupiers and not meet the requirements of Policy 24 for creating a sense of place that is attractive and accessible, or improve legibility through the site in the context of Policy DM1, or to make people comfortable with their surroundings as required in Policy 7.4(c) of the London Plan.

Other matters

17. Although not an objection put forward by the Council local people express concerns about the additional unit restricting access to the new flats on the site to the rear. The local part of Kenworthy Road is designated as a 'red route' where on street parking and waiting is prohibited. I have concerns that this development would result in an unsatisfactory access to the main site in

practical terms where the occupiers of the 8 new flats would have practical difficulties in make arrangements for servicing by delivery, removal and emergency vehicles. This would be likely to result in a conflict with the parking restrictions and interrupt the movement of traffic and pedestrians and this adds to my concerns about the proposal.

Planning balance

18. On the main issue in Appeal A, I have found that the scale and height of additional bulk to be added as a fourth floor to the building now under construction would have a visually imposing impact which would dominate the character and appearance of the space to the rear of the existing houses. Whereas in Appeal B, the proposed dwelling would fill-in the present gap between the terraces which contributes to the design and present character of these properties. In addition, the form of the new house, particularly at second floor level, would not fit in comfortably in the street scene. In both appeals the harmful effect on the character and appearance of the area would conflict with the specific policies in the development plan that have been referred to. In Appeal B the enclosure of the frontage and the access through the undercroft passage would not provide an attractive, inviting or safe residential environment. Finally, although not a main issue, I have found that the development in Appeal B would be likely to result in a conflict over the servicing of the flats to the rear and the parking/waiting restrictions on the highway outside of the site.
19. These aspects constitute significant adverse effects, but they have to be balanced with the benefits of both proposals. The development plan policies also seek to optimise the development potential of a site, and making effective use of previously developed land is also encouraged in the National Planning Policy Framework (the Framework). I note that the new units involved would also meet internal space standards.
20. However, the contribution that the proposals would make to increasing housing supply are limited and this and the other benefits do not outweigh the environmental and social harms that would be caused. As such the proposal does not constitute 'sustainable development' when the Framework is read as a whole. The other considerations put forward do not outweigh the conflict with the development plan and this indicates that neither appeal should be allowed.

Conclusions

21. For the reasons given above I conclude that the appeals should be dismissed.

David Murray

INSPECTOR