



Appeal Decisions

Site visit made on 3 October 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2023

Appeal Ref: APP/U5360/W/22/3296919

14 Andre Street, Hackney, London E8 2AA

- 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 DCP London against the decision of London Borough of Hackney.
 - The application Ref 2021/1818, dated 8 June 2021, was refused by notice dated 4 November 2021.
 - The development proposed is erection of balconies to the south-east facing elevation of the third floor (flats 8 and 9); installation of doors to the south-west facing elevation to flat 7 on the second floor to create access to the roof terrace; reconfiguration of the ground floor refuse and bicycle stores and sprinkler room.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Inaccurately, a balcony serving flat 8 was shown on the existing plans. As part of the appeal submissions, the appellant has provided amended drawing: Revised Proposed Third Floor Plan with Balconies (Drawing Ref. 0619- CDA-ZZ-XX-DR-A-05-2100 Rev03). This shows the full extent of the proposed balcony at flat 8. As this drawing is submitted to correct an inaccuracy which the Council is aware of, I have accepted this in determining the appeal and do not consider that the interests of any party have been prejudiced by my having done so.
3. A Daylight and Sunlight Report ('Daylight Report') has also been submitted in support of this appeal, which is based on the 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice' (2011) ('BRE Guidance'). This is intended to address the Council's reason for refusal, I, therefore, have also accepted this in determining the appeal and do not consider that the interests of any party have been prejudiced by my having done so.

Background and Main Issue

4. The appeal property is a four-storey building comprising flats, commercial space (offices) and ancillary facilities.
5. This appeal relates to a planning application for the elements of the proposal as set out in the header to this Decision. The Council has not raised any objection to the installation of doors to the south-west facing elevation to flat 7 on the second floor to create access to the roof terrace or the reconfiguration of the ground floor refuse and bicycle stores and sprinkler room. I have also considered these and have no reason to disagree.

6. Accordingly, the main issue is the effect of the proposed balconies on the living conditions of the occupiers of flats 6 and 7 with regard to the provision of daylight.

Reasons

7. The proposed balconies would serve existing flats (numbers 8 and 9). These balconies would be of a similar size and form to those which exist on flats along the lower floors of the appeal property.
8. The submitted Daylight Report assesses the effects of the proposed balconies on flats 6 and 7. The principal assessment of daylight is based on the calculation of the vertical sky component ('VSC') to an affected window in both the existing and proposed condition. In summary, the VSC is the amount of light received at the centre of a window. In respect of VSC, if with the new development in place it would be less than 27% and less than 0.8 times its former value then occupants of the existing building will notice the reduction in the amount of skylight.
9. Irrespective of the existing windows exceeding the annual probable sunlight hours, as a consequence of the proposed balconies, the VSC in respect of windows serving a bedroom for flat 7 and a bedroom and the living/dining area for flat 6 reduces to below 27% and below 0.8 of the original value. As such, there would be a perceptible loss of daylight to flats 6 and 7. In particular, the effected rooms would feel gloomier and there would be a greater reliance on artificial lighting for greater periods, to the detriment of the living conditions of the occupiers of flats 6 and 7.
10. Whilst I acknowledge the benefits associated with the installation of doors to the south-west facing elevation to flat 7 to create access to the roof terrace, this does not outweigh the harm I have identified.
11. I have also taken account of paragraph 5.14 of the Hackney Local Plan (2020) ('LP'). However, and irrespective of the inner urban location of the appeal property, the existing daylight received (VSC) is 30.92% and 32.97% for flats 6 and 7, respectively. As such, the existing arrangement is acceptable and would be appreciably worsened as a consequence of the proposal.
12. As already noted, the proposed balconies replicate existing arrangements at the appeal property. Nonetheless, the residents of these flats would have occupied them based on the existing arrangements. This is different to the proposal, which would adversely affect existing flats and their occupants.
13. Although the internal illuminance (average daylight factor) for the living rooms at flats 6 and 7 exceeds that set out in the BRE Guidance, the average daylight factor is primarily used for calculating daylight provision and therefore is not appropriate to calculating the loss of daylight. As such, I attach limited weight to this.
14. Consequently, the proposed balconies would harm the living conditions of the occupiers of flats 6 and 7 in respect of loss of daylight. This would be contrary to policy LP2 of the LP. Amongst other things, this Policy requires that all new development should be designed to ensure there are no significant adverse impacts on the amenity of occupiers and neighbours.

15. The Council's decision also refers to Policy D1 of the London Plan, this policy is of a strategic nature and focuses on defining an area's character to understand its capacity for growth and therefore is not directly relevant to living conditions.

Conclusion

16. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR