



Appeal Decision

Site visit made on 16 January 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2024

Appeal Ref: APP/Y5420/W/23/3327942

Flat 3, 50 Coolhurst Road, Hornsey, Haringey, London N8 8EU

- 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 J Gnezdilova against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2023/0489, dated 20 February 2023, was refused by notice dated 12 July 2023.
 - The development proposed is erection of external balustrade around existing rear balcony (retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I have not sought further comments on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.
3. While the description of development indicates that the proposal is retrospective, from my site visit I saw that the balustrade has been removed. As such I have dealt with the appeal on the basis of the submitted plans.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of the ground floor flats, with regard to privacy.

Reasons

5. The appeal property is a first floor flat with glazed doors that open onto a modestly sized platform at the rear. The appellant indicates that this platform has been used as a balcony since the building was converted into flats. There are number of other fully external balconies in the vicinity of the appeal site, primarily at the fourth floor.
6. Owing to the townscape there is already a degree of overlooking into the rear gardens. However, the addition of a balustrade around the perimeter of the platform would more readily allow occupiers to stand at the outermost edge. This would afford elevated views at close range into the gardens below, negatively affecting the privacy of the occupiers of the ground floor flats.

7. The garden areas nearest the rear elevation of the ground floor flats are largely private. Any views into this area from other balconies are from the top floor and so are at some distance away. The platform is set in from the shared boundaries and owing to its modest size would not be used by more than one or two people at a time. Nonetheless, it would introduce views at close range into the most private section of the gardens below, diminishing the level of privacy that could reasonably be expected.
8. While balconies may well be common in flatted development to provide outdoor amenity space, the level of intrusion created by the proposal would be readily apparent to the occupiers of the ground floor flats given that views would be into the most private areas of their gardens. The loss of privacy for these occupiers would be detrimental to their living conditions as a consequence.
9. It is suggested that the platform is not subject to a planning condition to prevent it being used as a balcony and it is indicated that it would continue to be used as a balcony without the balustrade, this is a fallback position. However, the existing arrangement does not affect the living conditions of the occupiers of the ground floor flats in the way the appeal scheme would. Consequently, I find the suggested fallback position to have limited weight in the determination of the appeal. Moreover, the occupiers of the appeal property would continue to have access to an outdoor space.
10. I note the initial reasons for installing the balustrade and that the appellant's personal circumstances have changed. Notwithstanding this, the appellant wishes to reinstate the development which is said to ensure the safe use of the platform as a balcony. I have not however been presented with any clear evidence that the platform cannot be safely used as a balcony with the existing arrangement or that the appeal scheme is the only way to achieve the appellant's aims.
11. I have considered the other examples of balconies at first floor level, of which there are several, and therefore a feature of the wider area. However, I do not have details of the ownership or access arrangements of the rear gardens. The contexts in each example are likely to be different to the proposal before me and are not directly comparable. A decision to refuse permission at the appeal site would not therefore be inconsistent with other decisions that have been taken in the area. In any event, the fact that apparently similar development has been granted permission is not a reason, on its own, to allow unacceptable development. As such, the other examples do not lead me away from my above findings.
12. Overall, the proposal would cause harm to the living conditions of the occupiers of the ground floor flats, with regard to privacy, in conflict with Policies SP0 and SP11 of Haringey's Local Plan Strategic Policies (2017) and Policy DM1 of the Development Management DPD (2017). These policies, amongst other things require development to be of a high quality design that respects its local context and has a high standard of privacy for neighbours. The proposal is also contrary to the provisions of the Framework at Paragraph 135 which seeks development that creates a high standard of amenity for existing users.

Other Matters

13. The appeal site falls within the Crouch End Conservation Area (CECA). The significance of the conservation area, insofar as is relevant to this case, is

primarily derived from the architectural detailing of the groups of buildings. As part of a group of period properties, the appeal site makes a positive contribution to the significance of the CECA. Having considered the proposal and visited the site, the appeal scheme would preserve the significance of the conservation area.

14. It has been suggested that the appeal should be deemed invalid. However, I have not been presented with any substantive evidence that a formal enforcement notice has been issued in relation to the appeal development. Instead, the enforcement case appears to be ongoing and as such I am satisfied that the appeal is valid.

Conclusion

15. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that indicate that I should take a decision otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed.

F Harrison

INSPECTOR