
Appeal Decision

Site visit made on 4 January 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 January 2017

Appeal Ref: APP/E5900/W/16/3159588

16A Martha Street, Shadwell, London E1 2PX

- 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 Mr Jaswant Sanghera against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/15/02021, dated 6 July 2015, was refused by notice dated 5 April 2016.
 - The development proposed is alterations and change of use from a shop (use class A1) to a one bedroom self-contained flat (use class C3).
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Decision

1. The appeal is allowed and planning permission is granted for alterations and change of use from a shop (use class A1) to a one bedroom self-contained flat (use class C3) at 16A Martha Street, Shadwell, London E1 2PX in accordance with the terms of application Ref PA/15/02021, dated 6 July 2015, subject to the attached schedule of conditions.

Procedural Matters

2. I was able to see on my site visit that some alterations and internal works had already taken place to form the one bedroom self-contained apartment which was not occupied at the time.
 3. Notwithstanding the appellant's appeal form, the Council issued its decision prior to the appeal being lodged. Consequently, this appeal is not made on the basis of the Council's failure to determine the planning application. However, I do acknowledge that the Council's decision was made outside of the 8 week statutory determination period.
 4. As part of the appeal, additional clarification was provided by the appellant in respect of land immediately to the west side of the west elevation of the single storey rear extension. The appellant had already indicated that this land could be used for outside amenity space purposes and hence the additional clarification has included the submission of drawing No 1506/01A showing the location of such land. The land is in the ownership of the appellant who has stated that "*allocation of this space to proposed flat 16A will not result in reduction of amenity space to existing flats*" and "*currently this space is used for emergency access to service duct attached to the main building*". I have taken this plan into account as part of the determination of this appeal. I do
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not consider that by accepting this plan it would prejudice any of the interested parties.

Main Issue

5. The main issue is the effect of the development upon the living conditions of (i) the occupiers of the proposed flat in respect of outlook, light and private outside amenity space and (ii) the occupiers of neighbouring properties in respect of outlook and light.

Reasons

Site and proposal

6. The site comprises former void space on the ground floor of a four storey building which is predominantly used for residential purposes (ie flats). There is a single storey rear extension to the property which was approved under planning permission Ref PA/14/01723. According to the Council, the void space has planning permission to be used for A1 use class purposes. It is understood that the void space has not been used for such a purpose since the granting of planning permission. The site is close to Watney Market District Centre and is in close proximity to Shadwell Underground Station. The area includes a mixture of residential and commercial properties.
7. The proposal is for the use of the void space as a ground floor one bedroom apartment. This includes the replacement of a shop front window on the front elevation with a smaller window (to match other windows on the front elevation of the apartment building), to form two windows in the west elevation of the existing single storey rear extension and to replace one small window with one larger window on the east elevation of the existing single storey rear extension.

Living conditions

8. In respect of the neighbouring properties, I do not consider that the proposal would result in a loss of light or outlook for the occupiers of neighbouring properties. This is because the single storey rear extension already exists in accordance with planning permission PA/14/1723. The proposal would simply utilise existing space in a different way and does not include any additional extensions to the appeal building. Therefore, I conclude that the proposal would not cause harm to the living conditions of the occupiers of neighbouring properties (including No 143-145 Martha Street) in respect of the scale of development and light when compared to the existing/consented position.
9. The proposal includes a new window to the front elevation to replace an approved shop front. The front window is similar in size and appearance to other ground floor windows in the apartment block and has three panes. I consider that this is more than adequate for the purposes of ensuring sufficient daylight into the proposed living area. Furthermore, I do not consider that the outlook afforded from this window would be unacceptable: whilst the windows would be close to the pavement, this is not unusual in an urban environment and I am satisfied that any passers-by would not cause significant disturbance to the occupiers of the flat.
10. In respect of the proposed windows to the west elevation of the single storey outrigger, one would be for a bathroom and one would be for the dining/kitchen area. I am satisfied that there would be enough daylight into

these windows given the immediately open land to the west. In addition, I do not consider that the outlook from these windows would be so bad as to justify refusal.

11. The proposed window to the east elevation would be for a bedroom. I accept that natural light would be needed from land on the adjacent site. However, I have been provided with no reason to suggest that there are any proposals for neighbouring land that would interfere with daylight to the bedroom window. Whilst there is a boundary wall between this window and the neighbouring land, this fulfils the purpose of providing a privacy screen from the pedestrian route to the Mosque whilst at the same time, due to its stepped form, allowing sufficient light penetration into the bedroom. Furthermore, I am mindful that such a room would be predominantly used for sleeping. I do not consider that the outlook from this window would be so bad as to justify refusal.
12. In its original form, the planning application did not specifically show any outside amenity space for the proposed flat. Policy DM4 of the adopted Tower Hamlets Managing Development Document 2013 (MDD) requires that for 1-2 person dwellings a minimum of 5 square metres of private outdoor space should be provided. I note that the other apartments do not have private outdoor space and that the proposed apartment would be larger (ie more than 50 square metres) than that required by Policy DM4 of the MDD. The larger than minimum flat size does go some way to justifying allowing the proposal in the absence of private outdoor space.
13. Notwithstanding the above, as part of the appeal the appellant has indicated that as he owns land that abuts the side of the west elevation of the single storey rear extension, and that it would be possible to use this area for private outdoor amenity space purposes. I have no reason to doubt the appellant's comment that this land is not currently used by any of the other existing flats. The proposed private outdoor amenity space measures about 6.20 square metres and is owned by the appellant (it falls within blue edged land on the submitted site location plan). Subject to the imposition of a planning condition which requires this land to be retained as private outside amenity space solely for the proposed flat, the proposal would accord with the requirements of Policy DM4 of the MDD. As the appellant owns the whole of the apartment complex, it would be possible for him to ensure that any tenancy agreement included a requirement to allow access to the outside amenity space for the purposes of maintaining or repairing the ducting.
14. For the reasons outlined above, and subject to the imposition of a number of planning conditions, I conclude that the proposal would not cause material harm to the living conditions of the occupiers of the proposed flat in respect of outlook, light and private outdoor amenity space, or to the living conditions of the occupiers of neighbouring properties in respect of outlook or light. Therefore, the proposal would accord with the amenity aims of Policies DM4 and DM25 of the DMD and Policy SP10 of the Tower Hamlets Core Strategy 2010.

Other Matters

15. I acknowledge the representation made by the occupiers of No 143-145 Martha Street (the Mosque) about the impact of the development upon this neighbouring property. However, the proposal would not represent a change

to the existing scale of development, and for the reasons outlined in this decision, there would not be significant overlooking issues.

16. None of the other matters raised outweigh my conclusion on the main issue.

Conditions

17. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary, I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.

18. Planning permission is granted subject to the standard three year time limit condition.

19. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.

20. In the interests of ensuring that the occupiers of the proposed flats have an acceptable amount of outside amenity space, it is necessary to impose a planning condition which requires that such amenity space (as shown on plan No 1506/01 A) is made available solely for the occupiers of the proposed flat and at all times.

Conclusion

21. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Daniel Hartley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following plans: Drawing No 1506/01A; Drawing No 156/02; Drawing No 1506/03 and Drawing No 1506/04.
- 3) The outside amenity space shown on Drawing No 1506/01A shall be made solely available for the occupiers of the flat hereby approved and at all times.