

Appeal Decision

Site visit made on 24 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: 27 January 2017

Appeal Ref: APP/H5390/W/16/3163873 10 and 12 Elbe Street, London SW6 2QP

- 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 Clive Roberts against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/02121/FUL, dated 9 May 2016, was refused by notice dated 28 September 2016.
 - The development proposed is alterations to the single storey rear extensions to the side of the back additions at 10 and 12 Elbe Street and the erection of a single storey rear extension at 10 Elbe Street.
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Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. Part of the rear extension has already been erected on the site.
3. The appellant has confirmed that the description of development should be as per the Council's refusal notice and not the appellant's appeal form. This more accurately describes what is shown on the proposed dwellings and therefore it is used in the banner heading above.
4. Notwithstanding the above, the appellant considers that some of the proposed development is permitted development. According to the Council's appeal statement, this is separately being investigated by their Planning Enforcement service. This is not, however, a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal. I note that the appellant has submitted evidence relating to permitted development, but for the reasons outlined above, I have determined this appeal on the basis of all of the proposed development shown on the submitted plans, and as per the agreed description of development in the banner heading above.

Main Issues

5. The main issues relate to (i) whether or not the proposal would result in an unacceptable loss of rear outside amenity space for the occupiers of No 10 Elbe Street; (ii) the effect of the proposal upon the character and appearance of the
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area and (iii) the effect of the proposal upon the living conditions of the occupiers of No 9 and No 11 Tynemouth Street in respect of light and outlook.

Reasons

Site and proposal

6. The appeal site comprises two mid-terraced properties and falls within an established residential area. Both of the properties are used for residential purposes. It is proposed to erect a single storey flat roofed extension to the side of the existing outrigger belonging to No 10 Elbe Street and also to the side of the existing outrigger belonging to No 12 Elbe Street. In addition, it is proposed to erect a single storey flat roofed extension to the rear of the existing outrigger belonging to No 10 Elbe Street.

Rear amenity space

7. Based on the evidence that is before me, it would appear that the Council has already approved a similar side extension to the original rear outrigger at No 10 Elbe Street (Planning permission Ref No 2015/04138/FUL). It is proposed to replace such consented development with a flat roof. Similar development is also proposed for the side extension of the original outrigger at No 12 Elbe Street. I was able to view the side extensions as part of my site visit and I consider that they are acceptable in design terms. However, the side extension to No 10 Elbe Street would be connected to the proposed rear extension and overall there would be much less outside amenity space for No 10 Elbe Street when compared to No 12 Elbe Street.
8. Whilst the resultant outside amenity space for No 12 Elbe Street would be just about acceptable in terms of its size, the resultant outside amenity space for No 10 Elbe Street would be inadequate. It would be too small for the size of the associated property and would give the occupiers of such a property a very substandard standard of outside amenity space. The space that would be left would be in very close proximity (approximately 2.6 metres) from the relatively high rear boundary wall, and hence it would feel cramped and oppressive. I am aware of the appellant's view that only the "infill" part of the rear extension needs planning permission, but even if I had been able to consider the permitted development right position as part of this Section 78 appeal, I would still have reached the same conclusion about the cumulative effect of all of the development at No 10 Elbe Street (including the "infill" part of the proposal) upon the amount of available outside amenity space.
9. For the above reasons, whilst the amount of outside amenity space would be acceptable for the occupiers of No 12 Elbe Street, it would be inadequate for the occupiers of No 10 Elbe Street. Therefore, the proposal would not accord with the design and amenity aims of Policy BE1 of the Hammersmith and Fulham Core Strategy Local Development Framework 2011 (CS); Policies DM A9 and DM G3 of the Development Management Local Plan 2013 and Housing Policy 6 of the Planning Guidance Supplementary Planning Document 2013 (SPD).

Character and appearance

10. Whilst the amount of development proposed for No 12 Elbe Street would be acceptable in terms of scale, position and design, the amount of development proposed for No 10 Elbe Road would be excessive. A significant amount of

outside amenity space would be built on and the rear extension would extend within very close proximity to the boundary with properties on Tynemouth Street. The gap between the dwellings on Tynemouth Street and the dwellings on Elbe Street is narrow, and overall the density levels in the area are high. However, in the main the original rear building lines have not been breached and this ensures that there are open breaks between the facing rear elevations of the existing properties.

11. In contrast to the above, the rear extension to No 10 Elbe Street would project beyond the original rear building line and would significantly detract from the sense of openness between properties. I acknowledge that the rear projection would be only 1.4 metres, but such a projection would have a significant impact upon the relatively narrow open break between properties and hence would have an adverse impact upon the character and appearance of the area. Furthermore, such a proposal, which would extend to within about 2.6 metres of the rear boundary wall, would not accord with Housing Policy 6 of the SPD which states that the Council will have regard to the existing established rear building lines of adjoining properties and *"permission will not normally be granted for any extension if (ii) the proposed extension would be within 4 metres of the rear boundary"*.
12. For the above reasons, the proposal would cause unacceptable harm to the character and appearance of the area, and would not therefore accord with the design aims of Policy BE1 of the CS; Policies DM A9 and G3 of the Development Management Local Plan 2013 and Housing Policy 6 of the SPD.

Living conditions

13. The rear extension would be in very close proximity to the rear boundary with No 9 and No 11 Tynemouth Road. The rear gardens of No 9 and No 11 Tynemouth are shallow and hence by virtue of the height, width and position of the proposed rear extension it would have an unacceptably enclosing impact when viewed from neighbouring rear windows/doors and garden areas. The boundary wall would screen part of the rear extension, but not to an acceptable degree owing to its height. Consequently, I consider that whilst the side extensions would not have a detrimental effect upon the occupiers of the neighbouring residential properties, the proposed rear extension would have a significant overbearing impact thereby leading to a material loss of outlook for the occupiers of No 9 and No 11 Tynemouth Road.
14. The appeal property is to the north of No 9 and No 11 Tynemouth Road. Taking this into account, coupled with the position and height of the proposed development, I do not consider that such development would result in a material loss of light for the occupiers of No 9 and No 11 Tynemouth Road. In this regard, the proposal would accord with the Council's policies. However, this does not overcome my finding in respect of outlook, and, in this respect, I conclude that the proposal would not accord with the amenity aims of Policy DM G3 and DM A9 of the Development Management Local Plan 2013 and Housing Policy 8 of the SPD.

Other Matters

15. I do not doubt that the appellant was advised by a Council planning officer to submit his proposals in four separate stages (ie four different planning applications). However, I am not bound by any of the advice given by the

Council at pre-application stage and, in any event, any pre-application advice is generally made without prejudice to the determination of any subsequent planning application(s). I have determined this appeal on its individual planning merits and taking into account relevant planning policies. It would be open to the appellant to submit a lawful development certificate application to the Council if he considers that any part of the proposal is permitted development.

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

Conclusion

17. The development proposal would result in inadequate outside amenity space for the occupiers of No 10 Elbe Street. In addition, whilst the rear extension to No 10 Elbe Street would not result in a material loss of light for the occupiers of No 9 and No 11 Tynemouth Road, it would cause significant harm to the occupiers of these properties in terms of a loss of outlook. Furthermore, the rear extension to No 10 Elbe Street would have a significantly detrimental impact upon the character and appearance of the area. Whilst the side extensions would be acceptable, they are not severable from the remainder of the proposed development. Therefore, it has not been possible to issue a split decision. For all of the above reasons, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Daniel Hartley

INSPECTOR