

Appeal Decision

Site visit made on 23 January 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 06 February 2017

Appeal Ref: APP/E5900/W/16/3162842
17B Wentworth Street, London E1 7TB

- 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 Margit Wendelberger against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/16/00684, dated 14 March 2016, was refused by notice dated 11 May 2016.
 - The development proposed is new timber decking with steel support structures to rear of flat 'B' (second floor) roof of flat 'A' at first floor level with obscure glazing to existing rooflight and clear glass balustrade to perimeter to form terrace.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring residential occupiers at Flat 17A Wentworth Street, with particular regard to outlook, privacy and sunlight.

Reasons

4. The appeal site is located within a four storey terrace on Wentworth Street. The ground floor of the terrace is occupied by commercial units, with the remaining floors being residential. The appeal relates to the rear of the building at the first and second floors and consists of a proposed terrace above the existing extension to Flat 17A.
 5. The surrounding locality is characterised by buildings with varying architectural styles. As such, the wider outlook for both the appeal site and Flat A from the rear of the properties is predominately one of buildings which generally range between three and six storeys.
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6. Policy DM25 of the Tower Hamlets Managing Development: Development Plan Document 2013 (the DPD) seeks, amongst other things, to ensure that development protects the amenity of the occupants of buildings by ensuring that unacceptable losses of privacy and outlook, unreasonable levels of overlooking and an increase in the sense of enclosure does not occur.
7. In relation to outlook, from my site visit I observed that the main outlook for the occupiers of Flat A is from the full width doors which open out onto the courtyard area. I note the comments made by the appellant as to the glazed doors being the primary source of outlook. Whilst I agree that the doors offer the main outlook, such an outlook is of mainly the surrounding built form. As such, given the scale and location of the roof light I consider the unrestricted views of the sky are of significance to the occupiers of Flat 17A.
8. During my visit, I observed that due to the surrounding buildings the courtyard does not receive a substantial level of light. I note from the evidence submitted by the appellant that the proposed use of fritted glass will allow sunlight through the glass and into the extension below. Despite this, and in the absence of a daylight/sunlight assessment, I consider that the use of fritted glass would result in some loss of light to the extension below. Given the existing circumstances in regards the levels of light already experienced, I consider that the proposal would result in an unacceptable loss of light which would be detrimental to the living conditions of the occupants of Flat 17A.
9. The appellant has suggested that in order to ensure adequate levels of daylight, the use of a condition could be imposed. However, due to the limited evidence before me in regard of the resulting levels of daylight and sunlight, I am not convinced such measures would adequately ameliorate the loss of light.
10. Furthermore, as the terrace would be directly above part of the main living space of Flat 17A I find that the visual presence of individuals standing above the roof light, in what is a relatively modest space, would also result in an increased sense of enclosure.
11. In terms of privacy, I accept that views into the living room space behind the glazed doors are possible from both the living room and adjacent bedroom in Flat 17B. Furthermore, I note that the use of fritted glass would ensure that it would not be possible to view inside the extension below the proposed terrace.
12. Nevertheless, the courtyard area is the only amenity space available to the occupiers of Flat 17A. Whilst views into the living area are already possible from Flat 17B, in my opinion the use of the proposed terrace, particularly during the summer months, is likely to serve to further materially reduce the level of privacy to a degree uncharacteristic of the level of privacy expected within a courtyard setting. As such, I do not find that the proposal would improve upon the existing situation in relation to the level of privacy experienced by the occupiers of Flat 17A, as is contended by the appellant.
13. The appellant has drawn my attention to the planning permission granted in respect of the building located directly north of the appeal site¹. I acknowledge that the elevation displayed as Figure 6 within the appellant's submitted appeal statement depicts two windows on the southern elevation and balconies on the western elevation. However, due to the limited information before me I cannot

¹ Council reference PA/15/01712

be certain of the distance from Flat 17A and whether or not there would be any effect on privacy. As such, I have therefore determined the appeal on its own merits, as I am required to do.

14. Accordingly, I find that the proposed development would detract from the living conditions of the occupiers of Flat 17A with particular regard to outlook and a sense of enclosure, privacy and sunlight. In this regard there is conflict with Policy DM25 of the DPD to which I attach significant weight.

Other Matters

15. I note that the site is within the Wentworth Street Conservation Area (the CA). As such, section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
16. I find that, apart from the immediate surrounding residential dwellings and neighbouring buildings, the proposal would not be visible from the wider CA. Accordingly, in this instance I find that the character and appearance of the CA would be preserved.

Conclusion

17. I acknowledge that the proposal would provide a meaningful amenity space for the appellant. Furthermore, I note that the proposal is supported in principle by the freehold owner of the building. However, the harm I have identified in respect of the neighbouring residential occupiers at Flat 17A is decisive.
18. Accordingly, for the above reasons, and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

Helen Cassini

INSPECTOR