
Appeal Decision

Site visit made on 7 February 2017

by G Rollings BA(Hons) MA(UD) MRTPI

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

Decision date: 22nd May 2017

Appeal Ref: APP/U5360/W/16/3161975
78 Brooksby's Walk, Hackney, E9 6DA

- 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 Zia Hassan against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2015/4061, dated 1 November 2015, was refused by notice dated 1 September 2016.
 - The development proposed is conversion of the single family dwelling into three self-contained flats involving a proposed basement level, first floor and the creation of a mansard roof.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of surrounding occupiers, with regard to outlook, and sunlight and daylight; and
 - Whether the proposed development would provide satisfactory living conditions for future residents, with regard to internal space provision, sunlight and daylight, and outlook.

Reasons

Character and appearance

3. The appeal site accommodates a three-storey, mid-terrace building, opening on to the pavement of Brooksby's Walk with the ground floor appearing as a shuttered shopfront at street level, albeit with a living room behind. The proposed development incorporates the conversion of the existing house into flats, including the addition of the first floor above the existing single-storey rear projection, a third-floor of accommodation within a new mansard-style roof extension, and a new basement floor. The Council's objections on this issue refer to the proposals for the front elevation, and the roof extension.
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4. Examining firstly the proposed alterations to the street-facing elevation, I observed that the terrace accommodating the appeal building has the appearance of a parade, with retail units occupying some of the buildings. Some of these, including the neighbouring properties to the appeal site, have been converted to residential use and either retain their shopfront facades, substituting opaque windows, or have been more extensively converted to provide a domestic appearance, to a greater or lesser extent. The proposed ground floor front elevation would incorporate the insertion of new windows serving the ground floor, and clerestory-style windows to serve the new basement accommodation, set externally at pavement level. The design would incorporate elements of the previous similar conversions at 74 and 76 Brooksby's Walk.
5. The evidence before me indicates that the alterations on neighbouring buildings have been undertaken recently, which suggests that the character of this part of Brooksby's Walk is transitioning from a retail parade towards a more domestic character. The front elevations of properties have been altered in a piecemeal manner to reflect this change. Low-level basement windows have been established on nearby properties, either in conjunction with lightwells set into the pavement, or stand-alone examples, such as those at No. 74. Although they are only used by a few properties, they are nonetheless noticeable in the street scene. In this context, the proposed alterations would not be out of character with their surroundings, and are appropriate.
6. The proposed mansard roof extension would be partially hidden behind the existing front parapet wall. The width of Brooksby's Walk and the height of the existing building, coupled with the slight setback of the planned extension, would limit its visibility from outside the front of the building in a manner similar to the existing examples on neighbouring buildings. As such, the proposed design would not be out of character with its surroundings.
7. In considering the roof extension's impact on the rear elevation, I acknowledge the design guidance provided within the Council's adopted *Residential Extensions and Alterations Supplementary Planning Document* (2009) (SPD). This sets out 'good practice' design examples of roof extensions where they are to top existing butterfly roof profiles, as is the case in this instance. Although the plans indicate that the existing butterfly roof profile would be retained in the proposed design, the overall profile would appear as a roof dormer. This would be slightly set back from the existing rear façade. Whilst it would not align precisely with the SPD's guidance, the proposed setback, design, and materials would enable the existing butterfly profile to remain clearly visible. It would also closely match the similar example next door at No. 76. As such, it would not appear incongruous and would respect the character of the area.
8. I therefore conclude that the proposed development would not significantly harm the character and appearance of the area. There would be no overall conflict with the development plan for the area, particularly Policies 7.4 and 7.6 of *The London Plan* (2015), the Council's *Core Strategy* (2010) Policy 24, and its *Development Management Local Plan* (2015) (DMLP) Policies DM1 and DM2. These require development to be appropriate to its location and context, amongst other considerations, and are consistent with the advice provided by the *National Planning Policy Framework* (the Framework) which requires development to achieve a high quality of design.

Living conditions for existing residents

9. The existing rear projection abuts the southern side boundary of the appeal site, with a narrow open area occupying the space between the projection and the property's northern site boundary. This arrangement is mirrored on the neighbouring property at 80 Brooksby's Walk. At my site visit, I observed windows appearing to serve a habitable room on the ground-floor side elevation of the rear projection of No. 80, facing towards the existing rear projection on the appeal site.
10. The proposed first-floor extension would be built with a similar footprint as the existing rear projection. Given the short distance between the facing elevations of the rear projections on the appeal site and No. 80, the addition of a long first-floor extension in this location would significantly enclose the views from the internal and external ground floor areas of No 80. Additionally, the proposed extension is likely to restrict daylight and some direct sunlight to these areas of No. 80, given their southerly aspect, which would be significantly detrimental to its occupants' reasonable enjoyment of their property.
11. I therefore conclude that the proposed development would harm the living conditions of surrounding occupiers, with regard to sunlight and daylight, and outlook, and would conflict with London Plan Policies 7.4 and 7.6, Core Strategy Policy 24, and DMLP Policy 24. Together, these include a requirement for new development to respect the living conditions of existing residents close to development.

Living conditions for future residents

12. The Council raised concerns regarding the internal floor areas of two of the proposed flats. Development within London is subject to the unit sizes and standards set out within the *Nationally Described Space Standard* (2015) (NDSS), as set out within Policy 3.5 of The London Plan. At the time of its decision, the Council noted that the floorspace areas of the proposed two and three bedroom flats were less than those set out in the NDSS.
13. The appellant has stated that the plans have been amended to comply with the NDSS. However, the appeal plans before me have the same Plan numbers as those listed by the Council on its decision notice, and as these are the plans which informed the Council's decision and reasons for refusal, I must assume that the proposed amendments have not been made. I must therefore consider the appeal on the basis of the plans that are before me. On this basis, the proposal to build two and three-bedroom flats would have respective internal areas of 1m² and 10m² below the recommendations set out in the NDSS. The NDSS figures are minimum standards, providing a baseline for the achievement of acceptable living conditions within residential development. Accordingly, the failure of the scheme to attain the standards renders the proposal unsatisfactory.
14. Other concerns have been raised regarding the quality of the proposed basement accommodation. Two bedrooms are proposed within the basement. The front bedroom would be served by the clerestory windows opening onto the pavement. If these were to remain fully transparent, they would allow passers-by a direct view into the bedroom. To prevent overlooking, and obscure treatment would be required, which would restrict any outlook from

within the room. In any case, the size of the openings would be proportionally small for the size of the room that they would serve, and their ability to allow both sunlight and daylight to enter the room would be further restricted by their low position on the external elevation.

15. The rear bedroom would be served by a full-height window opening onto a small lightwell. In this case, outlook from within the room would be restricted to a narrow viewing angle upward from the lightwell, with no direct external views beyond the lightwell being possible from within most of the room. Similarly, daylight would be restricted by the small size of the lightwell, and its alcove position next to the tall external walls of the building. The lightwell would have a glazed ceiling, which would be walked over by residents accessing the rear garden, which would further restrict inhabitants' light and outlook.
16. I acknowledge the appellant's comment that viewing angles through the proposed windows would comply with accepted good practice. However, even if this were to negate my concerns over the outlook from the basement bedrooms, it would not mitigate the poor levels of sunlight and daylight into these rooms. The appellant also provided evidence to suggest that the development at No. 76 was allowed to proceed by the Council with similar basement conditions to what is proposed on the appeal site. Whilst the schemes have some similarities, No. 76 includes a clerestory window for its rear bedroom in addition to the lightwell, which would allow better outlook and light access than that in the appeal scheme. Nonetheless, despite the similarities between the appeal scheme and that of No. 76, proposed scheme would result in significant harm to the living conditions of future residents, for the reasons that I set out above, and in any case I do not consider that the development at No. 76 provides an example of development that should inevitably be followed.
17. Therefore, taking all of the above into account, I conclude that the proposed development would not provide satisfactory living conditions for future residents, with regard to internal space provision, sunlight and daylight, and outlook. It would conflict with Core Strategy policies 19 and 24, DMLP Policies DM1, DM2 and DM19, and London Plan Policies 3.5 and 7.6. These are consistent with the requirements of the Framework, and together require development to provide high quality living conditions for their occupants.

Conclusion

18. I have found that the proposed development would not have a harmful effect on the character and appearance of the area, but that it would have a significantly detrimental impact on the living conditions of existing and future residents of neighbouring properties, and future occupants of the appeal scheme. The harm arising from the latter demonstrably outweighs any absence of harm from the former.
19. Accordingly, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G J Rollings

INSPECTOR