

Appeal Decision

Site visit made on 18 June 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/E5900/W/18/3212649

Lattice House, 14-20 Alie Street, London E1 8GZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Erman Mantoet of EMA architects ltd against the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/18/00683/A1, is dated 8 March 2018.
 - The development proposed is described as: 'Part 1 and 2 storey roof top extension to create No.8 units'.
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Decision

1. The appeal is dismissed and planning permission for a part 1 and 2 storey roof top extension to create No.8 units is refused.

Procedural Matters

2. Since the submission of the appeal the Government has published its Housing Delivery Test (HDT) results alongside the publication of an updated revised National Planning Policy Framework (the Framework) in February 2019. This makes minor revisions including an additional footnote to Paragraph 11. I have had regard to the 2019 Framework when reaching my decision.
3. The appeal is against the failure to give notice within the prescribed period of a decision on an application for planning permission. Following the lodging of the appeal, the Council considered the application and indicated in its Statement that they would have refused the application.
4. For clarity and precision, I have taken the name of the appellant's company and the application reference number from the appeal form.
5. Statements of Common Ground have been supplied by the appellant to support his submission. However, as these documents have not been signed by both parties, I can only attribute little weight to them.

Application for costs

6. An application for costs was made by Erman Mantoet of EMA architects ltd against the London Borough of Tower Hamlets. This application is the subject of a separate Decision.

Main Issues

7. As outlined in the Council's Statement, the reasons for refusing planning permission would have been regarding the effect of the development on the

character and appearance of the appeal site and surrounding area including heritage assets, living conditions of existing and future occupiers and housing choice. I have formulated my main issues on this basis.

8. Accordingly, the main issues on this appeal are therefore:

- the effect of the proposed development on the character and appearance of the appeal site and surrounding area, including the effect on the setting of listed buildings;
- the effect of the proposed development on the living conditions of existing residents and future occupiers with particular regard to internal habitable space, private outdoor space, communal amenity space, outlook, dominance and daylight; and,
- whether the development is detrimental to the delivery of housing choice in Tower Hamlets.

Reasons

Background

9. The appeal site has a notable amount of planning history associated with it, and of particular note are 3 planning applications¹ that have been approved recently for roof top extensions to the existing building. Due to the similarities between these approved applications and the appeal scheme before me, I consider them to represent material considerations in the determination of this appeal.

Character and appearance

10. The appeal building currently comprises 6 storeys, with the majority of the building being constructed out of brick, apart from the sixth storey which is recessed from the main brick elevations and is constructed out of zinc panels. The appeal building has 2 frontages facing Alie Street and North Tenter Street. Due to the L-shape footprint of the building, the frontage on Alie Street is wider than the frontage facing North Tenter Street. When viewing the building from Alie Street, it is level with the adjoining building to the right, but projects slightly further forward than the building to the left. When viewing the appeal building from North Tenter Street it appears level with the adjoining buildings on both sides. However, at second floor, the building to the right has a slight set back compared to the facing elevation of the host building.
11. The host building has a contemporary appearance with sunken areas on both elevations facing Alie Street and North Tenter Street that provide access to the building and form balconies above ground floor. This provides some visual relief to the brick section of the host property, creating definition and areas of shading. Even though the sixth floor is set back from the elevations facing Alie Street and North Tenter Street, it is still possible to view the existing sixth floor when stood outside the host building. Additionally, the existing sixth floor is clearly visible when walking in both directions along Alie Street. In the case of the North Tenter Street elevation, this area is less dense due to the presence of the primary school facing the site, which enables direct views at a greater distance from roads such as Scarborough Street.

¹ PA/15/02943; PA/16/03549 and PA/18/03237

12. Within the immediate vicinity of the appeal site are a number of Grade II Listed Buildings, namely No's 2 and 8 St Mark Street; 17-19 Alie Street and 21 Alie Street. Additionally, a number of locally listed buildings have been brought to my attention which are in close to the site, which include No's 8-10 and 18 North Tenter Street. This has not been disputed by the appellant.
13. I acknowledge that the North Tenter Street elevation on the appeal scheme remains very similar to the previously approved applications, with regards to its bulk and massing. However, the appeal proposal has different fenestration details and does not include a balcony on the left-hand side, when viewing the host building from North Tenter Street. I find that on the appeal scheme, the lack of any additional articulation of the facing elevation and the introduction of 4 no. similar sized double windows would result in a visually dominant structure, emphasising the additional storey. This would form an unsympathetic feature in the street scene and would be especially harmful to the adjoining buildings either side of it, with particular regard to No 18, which is locally listed.
14. With regards to the facing elevation on Alie Street, the appeal scheme seeks an additional storey to the previously approved applications, where an additional 3 no. units would be located on the proposed 7th floor. I accept that the buildings on Alie Street have a variety of roof heights. In particular, I note the development to the right of the host building when viewing the Alie Street frontage from the road, where construction works were being undertaken at the time of my visit. Whilst the appeal scheme would not exceed the height of the building to the right, it would exceed the height of the adjoining building to its left, Symons House, No 22 Alie Street. Currently, No 22 has a similar height to the host building. However, through the recently approved applications, this is likely to change through the introduction of a potential additional storey. I acknowledge the approved applications and the likely changes that the introduction that a further storey would bring to the character and appearance of the host building and the surrounding area. However, the appeal scheme proposes 2 additional storeys on the host building that would be clearly visible from Alie Street.
15. Overall, I find that the distance between the roof heights of No 22 and the host building would be excessive. This would be further emphasised through the fenestration details on the proposed frontage where the proposed windows would have a taller appearance due to their dual location, thus increasing the vertical emphasis of the openings on this elevation. Additionally, No 22 is slightly set further back from the road than the host building, which would make the proposal more visible, especially when walking along Alie Street towards Mansell Street.
16. I find that the proposed development falls within the setting of No 2 and No 8 St Mark Street; 17-19 Alie Street and 21 Alie Street, due to their proximity and the visibility of the appeal site from their principal elevations. No 2 and No 8 are 4 and 3 storeys in height respectively of brick construction with channelled stucco rustication to the ground floor. No 17-19 is 3 storeys in height with a basement. There is a Stucco band to 1st floor sill height with brickwork above and a central arch leading to Half Moon Passage with iron gates that complement the iron railings to the front of the property. No 21 is a public house which is 4 storeys in height, above the ground floor frontage the building comprises brickwork with sash windows, where an ornate iron site is located.

17. Additionally, when walking towards Mansell Street, I find that the site would be visible from outside no's 28 to 44 (even), which are a group of traditional buildings ranging between 3 and 4 storeys in height above ground level. The resultant increase in size of the existing building as a result of the development would be notable and the proposed development would be clearly read in conjunction with the nearby listed buildings. Although, the roof heights vary along Alie Street from the site towards Leman Street, they are not as tall, which is a distinctive characteristic of the area. No 8 is the exception to the other listed buildings as it would be viewed in conjunction with the proposed North Tenter Street elevation of the scheme. However, for the reasons given earlier in this decision, I find the proposal would cause harm to its setting.
18. I have a statutory duty under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires me to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. I consider the proposed development would not accord with this duty.
19. For all of these reasons, I therefore conclude that the proposed development would not accord with the character, appearance and heritage aims of the Council's Core Strategy Development Plan Document 2010 (CS) Policies SP10, and SP12; Managing Development Document Local Plan 2013 (LP) Policies DM24, DM27 and The London Plan 2016 (LonP) Policies 7.4, 7.6 and 7.8.
20. Additionally, the proposed development would not conserve the heritage assets in a manner appropriate to their significance in line with the Framework. I find that the proposed development would result in "less than substantial" harm to the setting of the listed buildings for the purposes of paragraph 196 of the Framework. The proposal would add 8 dwellings to the Council's supply of homes, and the site is located in an accessible location, close to other facilities and would result in some limited economic and social benefits. However, as public benefits, these would not outweigh the less than substantial harm to the setting of the listed buildings.

Living conditions

21. The Council have concerns with the amount of internal space provided particularly in units No's 6,7 and 8. However, I note from the submitted drawings that these units all exceed the requirements contained within the Technical housing standards – nationally described space standard 2015 (THS). Therefore, I do not consider that the proposed development would result in a significant harmful effect on the living conditions of its future occupiers with particular regard to the amount of internal habitable space.
22. I note the concerns raised by the Council with regard to the primary outlook of residents, especially those in units facing Alie Street that predominantly face north. However, I note that in these units they would have additional windows on other elevations and the windows on the elevation facing Alie Street are of a size to sufficiently compensate for their orientation. Additionally, I note the concerns raised in respect of the single aspect outlook for Unit 5. However, I find again that the size of the windows serving the habitable rooms, coupled in this instance with a southern facing orientation would provide ample mitigation to prevent any harmful effects on the living conditions of its future occupiers.

23. The appellants have provided a daylight and sunlight report² (the 2018 report) to support their application, where the results have been disputed by the Council. Additionally, I note a letter³ of clarification regarding the baselines of the various reports. Whilst the Council has sought to provide its own data on this matter, it has used the existing baseline as the 1950-1990 building, whereas the 2018 report uses the existing building as the baseline, which I find more appropriate in this instance to formulate the Vertical Sky Component.
24. Whilst concerns have been raised by the Council to the effect on existing residents of Lattice House, I find that they would not directly face the proposed 7th floor and would therefore not experience the same effects as occupiers of No 18, which the 2018 report focusses upon. On the evidence before me, and in the absence of any substantive evidence to the contrary, I am satisfied that the proposed development would not result in any significant harmful effects on the living conditions of the occupiers of No 18 with particular regard to daylight and sunlight. With regards to outlook and dominance, I find that as the proposed 7th floor would be set further away from the edge of the internal courtyard than the proposed 6th floor, an increased sense of enclosure would be avoided. Thus, existing neighbouring occupiers, particularly those at No 18, who would face the proposed 7th floor would not experience any significant harmful effects to their outlook from windows facing the internal courtyard. In this respect the proposed development would accord with the amenity aims of CS Policy SP10, LP Policy DM25 and LonP Policy 7.6.
25. Both parties agree that the proposed development would require 76m² of communal amenity space and 140m² of children's play space, and both parties agree that the proposed development would provide 227m² of overall outdoor amenity space. This figure would include the children's play area, and overall it would exceed the minimum requirement. However, I acknowledge that the Council raise concerns with regards to the increase in the number of units within Lattice House that would not have access to any private amenity space should the proposal succeed.
26. Currently the number of units present at Lattice House without any outdoor private amenity space is 11, which would increase to 19 should the appeal be successful. Whilst I acknowledge that all of the proposed units exceed the minimum gross internal floor areas and storage requirements in the THS and that the proposed amount of outdoor amenity space exceeds the minimum requirement. However, I find that collectively the amount proposed outdoor amenity space and internal habitable space in the proposed development would not provide a suitable mitigation against the lack of provision for any private open space within the dwellings.
27. For all of these reasons, I therefore conclude that the proposed development would not accord with the amenity aims of CS Policy SP02; LP Policy DM4 and LonP Policy 3.5, the Mayor of London's Housing Supplementary Planning Guidance and the Framework.

Housing choice

28. The proposed development seeks to provide 8 one-bedroom flats for a mixture of either one or two people. The proposed development would be located on

² Daylight and Sunlight, Neighbouring Residential Properties undertaken by BVP dated 1 May 2018

³ Letter dated 19 February 2019 from BVP

top of Lattice House which currently incorporates 31 dwellings. The appellant asserts that the addition of 8 no. one bedroom flats would result in an overall housing mix of 21 x one-bedroom units (54%); 9 x 2-bedroom units (23%) and 9 x 3-bedroom units (23%). LP Policy DM3 requires development to provide a balance of housing types, including family homes, in accordance with the breakdown of unit types set out within the most up-to-date housing needs assessment. The policy seeks the following breakdown for market sector properties: one-bedroom (50%); 2-bedroom (30%) and 3/4+ bedroom (20%).

29. I note the reference by the appellant to Policy H12 of the draft New London Plan and to figures showing the mix of homes identified in the London 2017 Strategic Housing Market Assessment. Additionally, I note that the appellant considers that as the host building is located within the Central Activities Zone (CAZ) it makes the location more suited to smaller units and households. I agree with this observation, which also aligns with the aims of draft Policy H12, which states the nature and location of the site, with a higher proportion of one and two bed units generally more appropriate in more central or urban locations. However, whilst the policy seeks for Boroughs not to set prescriptive dwelling size mix requirements (in terms of number of bedrooms) for market and intermediate homes, it also seeks resistance for schemes consisting mainly of one-person units and/or one-bedroom units.
30. For all of these reasons, the proposal would harm housing choice through the provision of one-bedroom units only. Therefore, I conclude on this issue that the proposed development is detrimental to the delivery of housing choice in Tower Hamlets contrary to CS Policies SP02, SP12; LP Policy DM3; LonP Policies 3.8 and 3.9, and the Framework which aims to deliver a wide choice of quality homes.

Other Matters

31. I acknowledge that the development would bring some social and economic benefits to the area through the provision of 8 new dwellings and during the construction phase of the development. Additionally, I note that the development is sustainably located. However, I find that these factors in favour of the development do not outweigh the harm that would be caused.
32. I have had regard to a range of issues raised by neighbouring occupiers including drainage, building maintenance and litter / refuse, amongst other things, but find the scheme to be unacceptable for the reasons already identified.
33. Although limited information has been provided, I note reference by the appellant to a 'Building Heights' illustration and to the upwards extensions consultation⁴. However, for the reasons outlined above I find that that the scheme does not accord with policies contained within the Development Plan or with the Framework when read as a whole.
34. I have also had regard to concerns raised by the appellant about the way that the Council handled the application, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

⁴ Consultation on upward extensions in London, February 2016

Conclusion

35. For the reasons given above, the appeal should be dismissed.

W Johnson

INSPECTOR