
Appeal Decision

Site visit made on 18 December 2019

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 December 2019

Appeal Ref: APP/E5900/W/19/3235885

57c Commercial Street, London E1 6BD

- 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 Jonathan Carter against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/19/01083, dated 20 May 2019, was refused by notice dated 18 July 2019.
 - The development proposed is Single-storey mansard extension to a top floor flat, following the footprint of the building below; reconfiguration of the internal layout to optimise the usability of the existing space; relocation of the existing external terrace area; new rooflights and glazing throughout.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would preserve or enhance the character and appearance of the Wentworth Street Conservation Area and the existing building;
 - the effects of the proposal on the living conditions of neighbouring occupiers with particular regard to outlook, daylight, sunlight and privacy.

Reasons

Character and Appearance

3. Commercial Street is a reasonably broad, straight road which, in the vicinity of the appeal site, is lined on both sides by mainly four storey terraced buildings sited on the back edge of the footpath. The scale and consistency of built form and the long views afforded by this arrangement contrasts with the more modest scale and tighter grain of much of the rest of the Conservation Area. These characteristics are identified in the Wentworth Street Conservation Area Character Appraisal and Management Guidelines (2007).
 4. The appeal property is a top floor flat in a four storey Victorian building which is typical of the built form in this part of Commercial Street. Together with No 57, it makes up a well detailed and proportioned pair that sit within a longer terrace. Whilst there are subtle variations in the heights and detailing of the other buildings in the terrace, the overall impression is fairly uniform and
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cohesive. Therefore, both the terrace as a whole, and the pair at 57/59, contribute positively to the special architectural and historic interest of the Conservation Area.

5. The proposed roof extension would sit behind the parapet wall on the Commercial Street elevation. Whilst its height and set back would mean that the extension would be unlikely to be seen in street views directly opposite the building, it would be seen in more oblique views along the street from points to the north and south. It would appear as an incongruous interruption in the building's distinctive parapet line. The extension would also harmfully unbalance the symmetry created by Nos 57 and 59.
6. Moreover, the proposed extension would result in the loss of most of the form and fabric of the building's butterfly roof. Whilst the appellant argues that the butterfly roof would be retained, it would appear that this would amount to the nominal retention of that roof shape within the rear wall of the extension. Butterfly roofs are characteristic of terraces such as the appeal property and its loss would further erode the character of the building. Consequently, I consider that the proposal is not supported by the Council's Mansard Roof Guidance Note.
7. Although the appellant has drawn my attention to other roof extensions in the area, none are in the appeal property terrace. I also note the Council's evidence that only one of the examples cited is within the Wentworth Conservation Area. In that case the extension was considered appropriate as it was lower than neighbouring buildings. Those findings have not been disputed by the appellant. Moreover, little information has been provided on the circumstances of the approved schemes cited by the appellant. This limits the weight I can attach to them.
8. The rear elevation of the appeal building is currently visible from Toynbee Street and the additional height, bulk and uncharacteristic flat roof form of the proposed extension would be prominent in that view. However, a large scale development at 11-31 Toynbee Street (Application re PA/16/02878/A1) is currently under construction. When completed it will block views of the proposed extension from Toynbee Street and negate its impact on that streetscene.
9. Nevertheless, overall, I find that the proposal would not preserve or enhance the character and appearance of the Conservation Area or the existing building. Consequently, it would conflict with Policy SP10 of the Council's Core Strategy (2010) (CS) and Policy DM27 of its Managing Development Document (2013) (DMM). Together, these policies require development to preserve or enhance heritage assets, including Conservation Areas, not result in adverse impact on the character, fabric or identity of the asset and to be appropriate in terms of its design and form. Nor would the proposal accord with CS Policy SP10 insofar as it requires development to respect strategic and local views.
10. The proposal would also conflict with Policy DM24 of the DMM. This policy requires development to be sensitive to local character, taking account of height, form, rooflines and streetscape rhythm and protecting features of positive value within the site, amongst other things. Nor would the proposal accord with National Planning Policy Framework (the Framework) paragraph 127 which has similar aims.

11. The first reason for refusal also cites DMM Policy DM25. However, that policy deals with the amenity of surrounding occupiers and adds little to my consideration of this issue.
12. The proposal would also conflict with Framework paragraphs 192 and 193 which require the desirability of sustaining and enhancing the significance of heritage assets to be taken into account and to give great weight to the conservation of the asset according to its importance. In this case, the Conservation Area benefits from statutory protection¹ and is of considerable significance. Whilst the harm would be less than substantial, the Framework is also clear that great weight should be attached to heritage harm irrespective of whether it is substantial or less than substantial. Paragraph 196 requires less than substantial harm to be weighed against the public benefits of the proposal. I do this in the Planning Balance below.

Living Conditions

13. As well as the roof extension, the proposal would add an additional storey to the rear outrigger of the building. The roof of the outrigger currently provides an external amenity area and this would be re-created on the roof of the additional storey.
14. The additional storey would be sited reasonably close to the rear wall and outrigger of the neighbouring property at No 59, both of which contain windows serving residential accommodation including rooms likely to be used for significant periods of the day, including one bedroom. The Daylight and Sunlight Report² submitted with the application used the methodology set out in the BRE guide³. It finds that the proposal would result in the reduction of the Vertical Sky Component (VSC) of three of the windows in the neighbouring property (Report refs first floor windows W2 and W3 and second floor window W3) to between 5.54% and 12.44% with ratios of proposed/existing VSC of 0.69 and 0.70. The BRE guide advises that, where the VSC of a window is reduced to less than 27% and the ratio to less than 0.8, occupiers are likely to notice the reduction in the amount of daylight, the area lit by the window is likely to appear more gloomy and electric light will be needed more of the time.
15. The ratio of proposed/existing Annual Probable Sunlight Hours experienced by the same windows during winter would also be reduced to less than 0.8. Two of the three windows would also receive less than 25% of the total Annual Probable Sunlight Hours. In these circumstances the BRE guide advises that occupiers will notice a loss of sunlight.
16. The BRE guide also advises against the rigid application of numerical values and that bedrooms can be considered less important. However, in this case, I consider that the overall level of the reductions in daylight and sunlight reaching the neighbouring property would be more than sufficient to adversely affect the living conditions of its occupiers.
17. Taken together the roof extension and the additional storey would also add considerably to the bulk of the appeal property in close proximity to No 59. That property currently has a limited outlook and the resulting increase in the

¹ Town and County Planning (Listed Buildings and Conservation Area) Act 1990 section 72(1)

² Waldrams 15 May 2019

³ Building Research Establishment Site Layout Planning for Daylight and Sunlight – A guide to good practice

sense of enclosure would compound the harm to the living conditions of its occupiers due to the reduction of light reaching its windows.

18. The re-created external amenity area and the window in the new third floor bedroom would allow close range views to the windows of the neighbouring property. Nevertheless, the degree of overlooking would be little different from the existing situation. To that extent therefore, the proposal would not result in an unacceptable loss of privacy.
19. I recognise that the development at 11-31 Toynbee Street will impact on the outlook and daylight and sunlight conditions of both No 59 and the appeal property. I also note that raising the height of the external area at the appeal property may ameliorate some of those effects for future occupiers of that property. However, I consider that it would be inequitable to seek to remedy the effects of the Toynbee Street development on the appeal property through a scheme which would add further to the impacts on No 59.
20. Consequently, I find that the proposal would have a harmful impact on the living conditions of neighbouring occupiers with particular regard to outlook, daylight and sunlight. As such, it would conflict with CS Policy SP10 and DMM Policy DM25 which require development to protect the amenity of surrounding occupiers by, amongst other things, not resulting in an unacceptable loss of outlook or a material deterioration of daylighting and sunlighting conditions.
21. The second reason for refusal also cites DMM Policy DM24. However, as outlined above this policy is primarily concerned with design matters and adds little to my consideration of this issue.

Planning Balance and Conclusion

22. The existing flat at the appeal property has a floor area of some 44sqm which is below the London Housing Design Guide standard for one bedroom dwellings. The appeal proposal would considerably increase the size of the flat and enhance the quality of the accommodation, making it potentially suitable for occupation by a family. That outcome is supported by the housing policies of the CS and the London Plan. The appeal property is also sustainably located with regard to access to public transport and local facilities. Nevertheless, the proposal would not create any additional residential units.
23. The appellant has referred to Framework paragraph 118 in support of the proposal. However, as paragraph 117 makes clear, the support for the development of under-utilized buildings and the airspace above existing premises should not be at the expense of safeguarding the environment and safe and healthy living conditions.
24. Overall therefore, I find that the public benefits of the proposal do not outweigh the harm caused to the Conservation Area. As such, the proposal would not comply with the development plan when read as a whole or the Framework and would not amount to sustainable development.
25. For these reasons, the appeal should be dismissed.

Simon Warder

INSPECTOR