



Appeal Decision

Site visit made on 17 December 2019

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2020

Appeal Ref: APP/E5900/W/19/3237360
288A Bethnal Green Road, London E2 0AG

- 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 Steve Cole (Chesterhill Investments Ltd) against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/18/03610, dated 21 December 2018, was refused by notice dated 18 March 2019.
 - The development proposed is the demolition of existing first floor flat and construction of three new storeys above first floor level, including a three storey extension to the rear, to create three new residential (C3) flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council have confirmed that in their decision, reference to 290 Bethnal Green Road is incorrect and this should have been No. 292. I have therefore considered the appeal on this basis.
3. As part of the initial appeal submissions, the appellant supplied a daylight and sunlight study (DSS) and details of possible extensions to No. 292 in response to the Council's decision. As noted by the appellant, such details were not requested by the Council prior to its decision. Furthermore, the additional information does not seek to change the proposal and as such it is perfectly normal for such additional information to be submitted as part of the appeal process. I have therefore determined the appeal with this in mind.

Main Issues

4. The main issues are:
 - i. the effect of the development on the character and appearance of the area;
 - ii. the effect of the development on the living conditions of the occupiers of existing neighbouring residential properties, with particular regard to overlooking, outlook, daylight and sunlight;
 - iii. whether the proposal would prejudice future development at 292 Bethnal Green Road; and

- iv. whether the development provides suitable living conditions for the future occupiers of the first and second floor flats, with particular regard to amenity space.

Reasons

Character and appearance

5. The appeal site is situated within a terrace on the busy Bethnal Green Road. The area immediately surrounding the appeal site is densely developed and properties on this road sit in close proximity to those on Voss Street immediately to the south.
6. The existing building is two-storey in scale and height, of modern appearance and is dominated by the ground floor shop front and bulky fascia signage. Whilst it does not share any common design or form with other nearby buildings and lacks the front parapet of many of the other properties on this section of the street, it is an unobtrusive building which has a neutral impact on the streetscene.
7. The proposal would see a substantial increase in the bulk of the building through the provision of two additional floors and a full height rear extension. However, it is clear to me that the bulk and form of the proposal would not be out of character with development in the immediate area in principle, where four storey development is a common feature.
8. The building would be broadly the same height as that adjoining and the top floor would be set back behind a parapet wall at the front. When viewed from Bethnal Green Road, the building would appear as an entirely appropriate building and would not have any adverse impact on the streetscene. In this respect it would not appear cramped, nor would the design of its roof appear as a top-heavy structure.
9. In respect of the rear element, the resultant building would not have the same level of design features as the frontage but would still essentially be a four-storey building with a flat roof.
10. As I have noted above, the area is densely developed and this clearly forms part of the character of the area. Whilst the increase in size of the existing building would add further built form to the area, to my mind it would not appear excessively cramped or out of character with the prevailing development.
11. Furthermore, the rear extension would not be excessive in height in comparison to development to the rear at 21-23 Voss Street and would be appropriate in height and scale to the main body of the resultant building.
12. For the above reasons, the proposal would have no adverse impact on the character and appearance of the area and would accord with Policies 7.4 and 7.6 of the LP, Policy DM24 of the Tower Hamlets Managing Development Document (2013) (THMDD) and Policy SP10 of the Tower Hamlets Core Strategy (2010) (THCS) which amongst other matters seek good quality design appropriate to local character.

Living conditions (existing occupiers)

13. The ground floor unit at 21-23 Voss Street benefits from a small outdoor amenity area which already suffers from overlooking as a result of the windows in units above which allow views onto it. The bedrooms located at the rear of the appeal property would be perpendicular to the amenity area of Nos 21-23 and views would only be possible at an acute angle. As such, there would be very limited overlooking potential as a result. Other windows within the rear elevation of the appeal proposal would serve non habitable rooms and would be obscure glazed.
14. The existing amenity space currently benefits from a very limited outlook due to the height and proximity of surrounding buildings. Whilst the appeal proposal would inevitably result in an increase in the massing of the built form in the area, to my mind, it would not result in significant or unacceptable loss of outlook to this amenity area.
15. Turning to the effect on daylight and sunlight, I note that the ground floor unit at 21-23 Voss Street has three ground floor windows to its rear elevations. Although they act as guidance only, the evidence suggests that the impact of the development on window 3, a primary opening serving a living area, would be acceptable and in line with both the BRE Vertical Sky Component (VSC) and Daylight Distribution tests. The same would be the case for the primary opening serving the two flats above. The Daylight and Sunlight study indicates that the proposal would have an acceptable impact on nearby properties in relation to sunlight to windows requirements.
16. Notwithstanding the above, the evidence indicates that the proposal would result in some bathroom windows and secondary high-level windows at 21-23 Voss Street along with two other non-habitable windows at other nearby properties failing the VSC test.
17. However, I am mindful of the dense urban nature of the immediate area where properties sit in very close proximity to one another. In this respect, I afford more limited weight to the failure of secondary and bathroom windows to meet guidance.
18. Taking all of the above factors into account, in my view, the proposal would not have an unacceptable impact on the living conditions of the occupiers of 21-23 Voss Street, or any other neighbouring residential property.
19. Consequently, the proposal therefore protects the living conditions of surrounding neighbours and would not conflict with Policy DM25 of the THMDD which seeks to protect the living conditions of existing occupiers.

Future development

20. Amongst other requirements, Policy 7.6 of the LP seeks high quality architecture of appropriate density and character which optimises the potential of sites. It suggests that building form and layout should not prejudice the development opportunities of surrounding sites. The Council are concerned that the side facing windows of the appeal proposal would prejudice further development at No 292.
21. However, the east facing bedroom windows to the first, second and third floor flats would be set a reasonable distance from the boundary with No. 292.

Taking this into account, from the evidence before me and from what I observed on site, I consider that an acceptable living environment for the occupiers of the appeal flats would be unlikely to be wholly reliant on space to the rear of this property for outlook or light.

22. Whilst any future proposals at No. 292 would have to be considered on their own merits, I am of the view that the proposal is designed in a manner which would not prejudice development opportunity at the neighbouring site.
23. For the above reasons, the proposal would not prejudice the future development of 292 Bethnal Green Road and therefore the proposal would accord with Policy 7.6 of the LP which amongst other matters seeks to optimise the potential of sites.

Living conditions (future occupiers)

24. Policy DM4 of the THMDD requires a minimum private amenity space provision of 5sqm for 1- 2 person dwellings with an extra 1sqm for each additional occupant. The policy emphasises the importance of private amenity space for activities such as having a meal outside or drying clothes, which would enhance the enjoyment of the property for a future occupier.
25. However, the proposal does not provide any private amenity space for the first and second floor flats. In this respect it is clear that the proposal does not accord with the provisions of Policy DM4 and this is not disputed by the appellant.
26. Notwithstanding that, the appellant has drawn my attention to a number of areas of public open space within one kilometre of the appeal site. I accept that there are a range of public open spaces in the area, which could be enjoyed by future occupiers. However, whilst these public spaces would be of value to the future occupants of the development, they would not perform the same function as private amenity space and would not be a substitute for a private amenity area.
27. In addition to the above, I acknowledge that the existing flat does not benefit from external amenity space. However, this is a historical situation and the policy requirement for such space relates to new development. In any case, the proposal would result in additional accommodation which would not have the required private amenity space which Policy DM4 seeks to achieve.
28. The Council have referred to Policy DM25 of the THMDD in their reason for refusal. However, this policy relates more to general amenity issues and does not specifically deal with the provision of external amenity space. I therefore find that the proposal does not conflict with this policy.
29. For the above reasons the proposal would not provide suitable living conditions for the future occupiers of the first and second floor flats contrary to Policy 3.5 of the London Plan (2016) (LP), Policy SP02 of the THCS, Policy DM4 of the THMDD and SPG¹ guidance, which amongst other matters, require well designed housing that takes account of the needs of its occupiers.

¹ London Plan Housing Supplementary Planning Guidance (SPG) (2016)

Conclusion

30. I have found that the proposal would fail to provide suitable living conditions for the future occupants of the development. That said, I also acknowledge that the development would also provide much needed new housing and would represent an efficient use of land in an accessible location. However, whilst the development clearly has some benefits, these are not sufficient to outweigh the harm I have identified.

31. Taking all matters into account, the appeal should be dismissed.

T J Burnham

INSPECTOR