The Planning Inspectorate

Appeal Decision

Site Visit made on 11 May 2021

by Samuel Watson BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th June 2021

Appeal Ref: APP/E5900/W/20/3259437
Flat 2, 90 Rosebank Gardens North, London, E3 5GB

- 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 D Ilan of Wellhill Estates against the decision of London Borough of Tower Hamlets.
- The application Ref PA/19/02499, dated 11 November 2019, was refused by notice dated 23 April 2020.
- The development proposed is a rear and side extension to 1st floor flat with extended roof terrace.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are the effect of the proposal on:

   - The living conditions of the occupiers of adjacent dwellings, with regard to outlook and daylight; and,
   - The character and appearance of the Medway Conservation Area (MCA).

Reasons

Living Conditions

3. The appeal site contains a three-storey building, the top floor of which is within a mansard roof. The upper floors are set back from the front elevation and are narrower than the ground floor. The appeal site forms part of a dense area of development, close to a number of windows which face the appeal proposal from a close distance. During my site visit I could not get to the lightwell at the rear of the site, but I understand that it is used as an outside space for flat 1, No 90 Rosebank Gardens North, and serves two bedroom windows. Above the lightwell, and facing the appeal site, is a third window which, from the evidence submitted, serves the bedroom of flat 4, No 498 Roman Road. To the side of the site are a pair of semi-detached dwellings, with their rear elevation facing the appeal site. From the information before me I understand that the two first floor windows facing the appeal site serve bedrooms, one for the front dwelling (window A) and one for the rear (window B).

4. Notwithstanding the surrounding dense development, I find the existing outlook from, and light to, the windows serving flat 4 and the semi-detached dwellings to be relatively good. This is in part due to the openness provided by the flat roof over the ground floor of the appeal site. Although ambient light to the lightwell and the windows of flat 1 is also good given the openness around

the top of the lightwell, the outlook from the lightwell and associated windows is restricted.

5. The proposed extension would be directly in front of, and close to, the bedroom window serving flat 4, No 498 Roman Road. Given the size and position of the extension it would significantly block the outlook from this window. Moreover, the proposal would result in the loss of both direct and ambient daylight to the bedroom resulting in the occupiers being more reliant on artificial lighting. As the room currently benefits from a good level of outlook and light, I find these impacts would make the bedroom a significantly less pleasant place to use. This would be to the detriment of the living conditions of the occupiers of flat 4.

6. As the outlook from the lightwell and the windows serving flat 1, No 90 Rosebank Gardens North is already significantly restricted I find that it is unlikely that the proposed extension would unacceptably reduce it further. However, by extending up to the top of the lightwell, it would result in the loss of daylight to the bottom of the lightwell and the bedroom windows. The lightwell and both bedrooms would therefore be gloomy spaces as a consequence. Moreover, given the small footprint of the lightwell, its increased depth as a result of the extension would be overbearing on the occupiers of flat 1. I therefore find that the living conditions of the occupiers of flat 1 would be unacceptably harmed.

7. The appellant has suggested that the parapet wall at the top of the extension along the lightwell could be removed through a condition. However, from the information before me, and the scale of the extension, I am not convinced this would be sufficient to mitigate the harms to the window of flat 4 or the lightwell and windows serving flat 1.

8. The proposal would extend completely across window B, serving the rear semi-detached dwelling. Given the scale of the extension and its close proximity to window B, it would significantly reduce any meaningful outlook afforded to this window. Moreover, the extension's significant height in close proximity to the garden of the rear semi-detached dwelling would be overbearing to the occupiers when they are out in their garden. Given the small size of the garden I find that it would make the whole of the garden less enjoyable to use. However, I find that the space retained between the extension and window B would be sufficient to maintain a good level of daylight to the room it serves. Nevertheless, given the loss of outlook to window B and the overbearing impact on the garden, I find the living conditions of the occupiers would be harmed.

9. I note the appellant's concerns regarding the level of protection a bedroom window deserves. However, it is possible that bedrooms are used flexibly throughout the day for various purposes, including home working, and not just at night as a traditional bedroom.

10. Although there are a number of other windows close to or facing the appeal site, including at the front semi-detached dwelling, I find that light to, and the outlook from, these windows are not unacceptably affected by the proposal given their relationship to it.

11. While I note the rear windows along Roman Road which face the semi-detached dwellings adjacent to the appeal site, I am not aware of the circumstances under which the semi-detached pair were approved. Moreover, I

find that the distance between these rear windows and the upper floors of the semi-detached pair is much greater than the distance in the appeal before me and are therefore more likely to protect the living conditions of the respective occupiers. Nevertheless, all proposals must be considered on their own merits and this example does not set a precedent for otherwise harmful development.

12. Therefore, given the above I find the proposed extension would unacceptably harm the outlook from, and light to, a number of habitable rooms, and result in an overbearing impact on two amenity spaces, to the detriment of the living conditions of neighbouring occupiers. The proposal would therefore conflict with Policies S.DH1 and D.DH8 of the Tower Hamlets Local Plan 2031 (THLP) which collectively, and amongst other matters, requires development to be of a high-quality design which protects the amenity of the occupants of new and existing buildings.

Character and Appearance

13. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special regard to the desirability of preserving or enhancing the character or appearance of a conservation area. In this respect national planning policy on heritage assets is set out in the National Planning Policy Framework (Framework). At paragraph 192, it sets out matters which should be taken into account including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.

14. I have not been provided with a conservation area appraisal. However, the MCA is primarily characterised by a dense pattern of relatively uniform residential dwellings. These are predominantly in brick with stone window mouldings and parapets hiding the main roof. However, the backs of properties, including the commercial properties on Roman Road, are characterised by sporadic and varied extensions and detached buildings. I find the significance of the MCA to stem from the linear pattern of development and the uniform nature of the street frontages.

15. While fronting on to Rosebank Gardens North, the appeal site is read in connection with the rear of the properties on Roman Road. I therefore find the appeal site contributes towards the informal development found along the rear of the uniform street frontages. The appeal site is set behind a tall brick wall which continues to either side of the site, this screens views of the ground floor but the upper floors of the appeal site and surrounding development are visible over the top. However, I find the upper floors are not prominent in views given the deep set back from the front elevation.

16. Above the strong building line of the ground floor, resulting from the front boundary wall, the north side of Rosebank Gardens North does not have a clear building line. Therefore, while the extension would project forward, it would not be a discordant feature within the street scene. Moreover, while the proposal would increase the width of the upper floors, the plot and building widths are not uniform along this part of the road and therefore, the additional width would also not be out of keeping. The limited scale of the proposal, helped somewhat by the flat roof, would also be in keeping with the host dwelling and surrounding buildings, and I find the extension would not be unacceptably bulky. Therefore, the proposal would not be a discordant feature and would maintain the varied character of development behind the street frontages.

17. In light of the above, I conclude that the proposed extension, given its scale and context, would not harm the historic interest or integrity of the MCA and would preserve its character and appearance. As such, the development complies with Policies S.DH1 and S.DH3 of the THLP which require development to, amongst other things, be of a high-quality design which preserves the borough's designated, and non-designated, heritage assets. The proposal would also comply with the overarching aims of the Framework.

Other Matters

18. While I note the appellant's concerns about the Council's case not being clear, in their appeal submissions the Council clarified their case and the appellant has had the opportunity to respond to this in their final comments.

19. The appellant has referred to two previous approvals for nearby development (PA/15/03558 and PA/17/00532). I have not been provided with the full details of these permissions and from the information before me I do not know the circumstances of the approvals. However, it appears that the rooms affected are a communal staircase and two kitchens. In my judgement, the impact from reducing the outlook from, or light to, such rooms would be substantially less acute than from the bedrooms identified above. Therefore, these decisions have not materially affected my determination of this appeal.

Conclusion

20. While the proposal would preserve the character and appearance of the MCA, this would not outweigh the harm I have identified to the living conditions of the occupiers of flat 1, 90 Rosebank Gardens North; flat 4, No 498 Roman Road; and the rear semi-detached dwelling, in conflict with THLP Policies S.DH1 and D.DH8. There are no other material considerations that indicate the decision should be made other than in accordance with the development plan, taken as a whole.

21. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR