
Appeal Decision

Site visit made on 9 June 2021

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 14 July 2021

Appeal Ref: APP/E5900/W/20/3256848
811 Commercial Road, London E14 7HG

- 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 A Shaid against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/19/02777, dated 13 December 2019, was refused by notice dated 5 March 2020.
 - The development proposed is described as extensions to first floor rear and second and third floor front to create 1 one bedroom flat and 3 No studio flat units.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Appeal Form stated that it was an appeal against the refusal of listed building consent for works similar to that set out in the heading above and citing a reference number of such a decision. However, this was accompanied by the decision notice for the refusal of planning permission. The appellant has subsequently confirmed that they were in fact seeking to appeal against the refusal of planning permission. This is therefore referenced in the heading above, and I have determined the appeal on that basis.
3. Since the Council made their decision and the appeal was made, The London Plan 2021 (London Plan) has been published and forms part of the development plan for the purposes of determining this appeal. The main parties have had the opportunity to comment on this change and no parties' interests will have been prejudiced by my taking it into account.
4. The Council's second reason for refusal is concerned with their findings that the proposed dwellings would not be to a satisfactory standard, citing lack of private outdoor space and insufficient internal floor areas. However, it is evident from their Delegated Report that their concerns extended to outlook, light and privacy. Similarly, the third reason cites harm to neighbours' light and outlook but the Delegated Report also identifies an objection in terms of privacy. The appellant has had the opportunity to comment on the Council's submissions and would not be prejudiced by my taking these factors into account in my decision.

Main Issues

5. Therefore, the main issues raised by this appeal are:

- i) whether or not the proposal would preserve the grade II listed building, 811 Commercial Road;
- ii) the effect the development would have on the character and appearance of the area, in particular that of St Anne's Church Conservation Area;
- iii) whether or not the development would provide acceptable living conditions for future occupiers, with particular regard to internal and outdoor space, outlook, light and privacy;
- iv) the effect the development would have on the living conditions of occupiers of neighbouring residential properties, with particular regard to outlook, light and privacy; and,
- v) whether or not refuse storage and cycle parking would be adequate.

Reasons

6. The appeal property comprises a commercial unit with a first floor flat above. It also has a flat behind in an elongated ground floor stretching back from the street along the narrow Chusan Place which runs along one side. The Council advise that the existing residential elements do not have planning permission however the application sought permission for units which include those shown as existing. The proposal would extend the front part of the property upwards by two stories topped with a flat roof, each with an additional flat, and extend it to the rear at first floor level enlarging the ground floor unit to a two-story dwelling.

Listed building

7. The appellant's document entitled 'Heritage Statement' does not describe the significance of any heritage assets affected by the proposal. It contains no detail to understand the potential impact of the proposal on their significance and it does not fit the minimum requirements for such a description of significance set out in the National Planning Policy Framework (the Framework). Nevertheless, from evidence provided and my observations on site, aspects of the building's special architectural and historic interest are evident and not limited to the shopfront.
8. The listed building has a narrow, stuccoed frontage with shopfront and bay window above. Dating from early to mid C19 it retains a traditional appearance and proportions with a locally distinctive 'butterfly' or 'London' roof arrangement with central valley behind a tall parapet. Therefore, and in the absence of any evidence to the contrary, it derives a considerable extent of its significance as a designated heritage asset of national importance from its traditional form, roof and materials, its age and relatively unaltered exterior.
9. At the time of my inspection many of the features and fittings associated with the Victorian undertaker's shop mentioned in the listing description were not evident. However, the Council note that an enforcement notice was served in respect of shopfront alterations and that this is an ongoing matter. The appellant advises that they are working with the Council to re-instate them. Bearing these circumstances in mind, this aspect of the building's current condition does not diminish its significance.
10. The addition of two floors would not only completely change the historic arrangement of the building but result in the loss of the valley roof and parapet configuration. These form important historic fabric and features contributing to its significance. The rear extension would mask the rear elevation of the first

floor of the building. The resulting appearance would be of a far more substantial building of considerable greater bulk, height and scale which would bear little resemblance to the existing building other than the retention of the bay window and shopfront.

11. Although some historic fabric and elements of its plan form and layout would remain, the listed building would effectively be subsumed into a much taller structure where its historic form would be largely hidden.
12. I have had special regard to the desirability of preserving the listed building and any features of special architectural or historic interest which it possesses, and I have given the heritage asset's conservation great weight. The proposal would fail to preserve the listed building and result in the loss of features of special interest including its roof and parapet. This would cause very great harm to the building's special architectural and historic interest and hence its significance. This harm carries considerable importance and weight.
13. I have borne in mind the approach in the Planning Practice Guidance¹ that an important consideration in considering harm to significance is whether an adverse impact seriously affects a key element of special architectural or historic interest. Also, that in this case, the degree of harm is very great. This is a circumstance where even though the destruction involved would be partial and the loss of significance would fall short of being total, the level of harm that would be caused to the building's special interest would be so great as to be substantial in the Framework's terms.
14. These are circumstances that the Framework directs that consent should be refused unless the proposal would achieve substantial public benefits that outweigh that significant harm. The development would have the public benefit of providing new dwellings, although such benefits would be diluted given my findings below on the standard of accommodation that would be provided and would consequently be limited.
15. The appellant advises that the property is in disrepair and requires what he describes as substantial works. However, these works are not detailed. Whilst the repair and use or occupation of an historic building is a public benefit, there is no evidence that the proposed scheme can be the only way in which to deliver any necessary repairs. Indeed the benefit of any such repairs to the building's significance in the context of the otherwise harmful effects of the scheme would be very limited. Overall, any public benefits arising from the scheme cannot be considered as being substantial and would not outweigh the harm the development would cause.
16. The development would be contrary to London Plan Policy HC1 and Tower Hamlets Plan² (Local Plan) Policies S.DH1 and S.DH3. Together, and amongst other criteria, these require proposals to: conserve heritage assets' significance; provide sufficient information to demonstrate the assets' conservation or justify any harm; show that extensions to listed buildings have no adverse effect on elements contributing to their significance, and; meet the highest standards of design.

¹ Paragraph: 018 Reference ID: 18a-018-20190723.

² Tower Hamlets Local Plan 2031: Managing growth and sharing benefits, 2020.

Character and appearance and Conservation Area

17. As mentioned above the appellant has not described the significance of the St Anne's Church Conservation Area (CA). However, again from the evidence before me and my observations, considerable aspects of its architectural and historic character and appearance are evident. The CA extends along Commercial Road and is focused on the Church along with historic buildings lining Commercial Road and side streets. It derives considerable significance as a designated heritage asset from the landmark and other historic buildings within it as well as the streets and spaces between them, along with the historic townscape which links these elements together.
18. The appeal building appears somewhat diminutive compared to its taller neighbours along Commercial Road. Nevertheless, this is part of the CA's special interest and indeed contributes to the varied and rich townscape of buildings of different sizes, styles and ages, as well as contributing to the rhythm of the streetscape by providing relief from the taller properties which surround it. Its alteration by adding two storeys terminating in a flat roof would erode part of the architectural and historic character of the CA and thus harm its significance, as well as the character and appearance of the area more generally. This also means that it would not deliver good design.
19. The appellant contends that the development would be less intrusive than an adjoining building which had the benefit of planning permission. No further details have been provided and it is not clear which building this is or whether it remains unbuilt. Whilst the proposal would raise the height of the appeal building to that similar to the eaves of the taller buildings in the row to the west, this would be at the cost of the loss of the townscape's interest as well as diminishing the architectural and historic character and appearance of the CA. Indeed, its height would exceed the parapet level on the building on the other side of Chusan Place. Furthermore, as an individual building contributing to the CA's special interest the loss of significance as a listed building would compound this harm.
20. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA and in doing so find that the development would harm those attributes. This harm carries considerable importance and weight, but given that it relates to only part of the streetscape which contributes to the CA's significance, this harm would be less than substantial as set out in the Framework. Nevertheless, in weighing this harm against the public benefits considered above, they would not outweigh the harm to the CA.
21. The development would be contrary to London Plan Policy HC1 and Local Plan Policies S.DH1 and S.DH3. Together, and amongst other criteria, they require development to: conserve and be sympathetic to heritage assets' significance and their appreciation within their surroundings; achieve the highest standards of design, including coherent roof lines; complement streetscape rhythm; ensure the composition and articulation of building form complements their immediate and wider surroundings; be of appropriate height and form in their context, and; preserve or enhance conservation areas.
22. However, as the development would sit within its existing footprint it would avoid conflict in this respect with Local Plan Policy D.DH2's public realm and connectivity requirements. The reasons for refusal also refer to London Plan Policy D2 in the context of designated heritage assets but this Policy is

concerned with infrastructure requirements and is not particularly relevant to the matters in contention in this case. Avoidance of conflict with these Policies does not weigh in favour of the appeal.

Future occupiers' living conditions

23. The proposed 'studio' flats would be small and narrow in plan. Even if providing accommodation for a single occupant they would provide very limited space and feel cramped. Windows to the front of each would provide natural light to the proposed bedspace areas. Although only partially screened from the remainder of the flats, this would provide much more limited natural light to the living areas beyond, resulting in dark spaces likely reliant on artificial light for most activities for much of the day.
24. Whilst flank windows are proposed to serve the living areas, they would face directly onto the blank wall opposite, separated only by the width of the narrowest part of Chusan Place. Not only would the natural light afforded by these windows be very limited, particularly at first and second floor level, but the outlook from them would be oppressively enclosed.
25. The two-storey rear unit would be larger with a separate bedroom but again, due to its narrow width would feel small inside. Apart from the kitchen area, it would be largely single aspect with most windows facing the dwellings on the other side of Chusan Place. Given the heights of the building opposite and that proposed, levels of natural light reaching the rooms would be limited, particularly to the ground floor.
26. The outlook from these windows would be limited too, with the dwellings opposite situated in very close proximity and effectively occupying all aspects of the view outside. This arrangement would also lead to those living opposite being able to look directly into both rooms of the proposed unit at very close proximity, meaning that future occupiers would have very little privacy.
27. Added to the confined dimensions of the proposed units, there would be no relief in the form of any outdoor space in which occupiers might relax or carry out outside domestic tasks. Together these shortcomings mean that the living conditions of future occupiers of the development would be significantly compromised and harmed.
28. The Council's decision notice cites London Plan Policy D4 in this respect which deals with the mechanisms of delivering good design. For the reasons above the development does not demonstrate good design but London Plan Policy D6 is more pertinent, dealing as it does with housing quality and standards.
29. Based on the Council's figures, and in the absence of any substantive evidence to the contrary, the internal floorspace of all the proposed units would fall below the minimum standards set out in the London Plan. This would fail to meet the requirements of London Plan Policy D6 and consequently Local Plan Policy D.H3 which require development to meet minimum internal floor areas in line with the Nationally Described Space Standard and provide private outdoor space. The adverse effects on future occupiers in terms of outlook, privacy and access to daylight would be contrary to Local Plan Policy D.DH8.
30. It would also conflict with the Framework's requirement that a high standard of amenity for future users is ensured.

Neighbours' living conditions

31. The proposed first floor rear extension would extend along Chusan Place and would be very close to, and directly opposite windows at ground and first floor serving the dwellings on the other side. The existing configuration of a single storey building on that part of the appeal site opposite means that whilst the outlook from those windows at ground floor will already be restricted to a degree, there is currently an absence of built form above the appeal building providing a degree of openness. Those dwellings with windows facing onto Chusan Place at first floor have a more generous outlook and, although enclosed to an extent by buildings beyond the appeal site, would still enjoy a reasonably spacious aspect.
32. The effect of the proposal, particularly the rear first floor extension, would be to significantly enclose the outlook from habitable rooms in the dwellings opposite resulting in occupiers feeling hemmed in within an oppressive setting. Although not directly opposite windows in the neighbouring building, the additional two storeys on the front part of the site would compound the oppressive outlook from windows in the building on Chusan Place closest to that part of the appeal development.
33. The current configuration means that although close, the single storey element would not restrict light to an unacceptable degree to the windows serving dwellings opposite. The addition of a storey above would have a marked effect on daylight reaching rooms at ground floor to the extent that they would feel darker and compound the feeling of enclosure that would result.
34. Although not cited in the Council's refusal reason, their Officer Report also identifies a loss of privacy and, given my findings in respect of the relationship of existing and proposed dwellings above, it is appropriate to take this into account as well. The windows proposed to habitable rooms in the rear extension would directly face those opposite at ground and first floor serving dwellings on Chusan Place. These would be in very close proximity and would lead to a considerable loss of privacy as a result of overlooking.
35. These effects would harm the living conditions of occupiers of dwellings at ground and first floor opposite the site on Chusan Place. This would be contrary to Local Plan Policy D.DH8 which requires development to protect amenity in terms of privacy, outlook and light, amongst other criteria. The proposal would similarly fail to meet the Framework's requirement that developments should create places with a high standard of amenity for existing and future users.

Cycle parking and refuse storage

36. The drawings do not show any provision of refuse storage either within individual flats or communally, and this is confirmed on the application form. No information is provided about refuse collection points nor existing arrangements. In the absence of any suitable dedicated waste storage it would appear that there would be a likelihood of occupiers leaving refuse and recycling outside on Chusan Place rather than inside the building.
37. The proposed access to the flats would be directly onto the very narrow part of the lane which runs alongside. In the event that any recycling or refuse was left out it would have the potential to make progress for pedestrians walking to

the proposed dwellings and to existing properties at Chusan Place inconvenient at least, if not dangerous in terms of potential trip hazard or hindering access or egress in emergency situations. Given the proximity of windows to habitable rooms in Chusan Place any inappropriately stored waste farther along the lane could well lead to harm to existing occupiers' living conditions by way of odours and visual intrusion.

38. Some internal cycle storage is proposed, the indicative details show three cycles but not in an independently accessible configuration. Even if the storage were fit for purpose the number of cycles shown would be less than one space per unit and inadequate for all the proposed units. The narrow width of the alley outside the proposed storage area would make cycles awkward to manoeuvre in and out.
39. Fear of theft may make it less likely that cycles would be left for long in locations which would hinder access for others along the lane. However, the lack of storage, inconvenient access and upstairs location of three of the units would dissuade all but the most dedicated cyclists amongst future occupiers to make use of cycling as a transport option.
40. The development would conflict with Local Plan Policies D.MW3, D.DH2, D.DH8, S.TR1 and D.TR3, and London Plan Policy T5. Together, and amongst other criteria, these require development to: include sufficient waste storage; integrate refuse and recycling facilities within the building; avoid unacceptable odour, and; provide fit for purpose and well-located cycle parking in accordance with minimum standards, as well as improving sustainable travel choice.
41. London Plan Policy SI 8 is less pertinent given its strategic approach to waste, however the avoidance of conflict with this particular Policy does not alter the conflict with the development plan on this issue overall.

Conclusion

42. The development would harm the significance of designated heritage assets, the character and appearance of the area, the living conditions of existing and future occupiers and fail to provide adequate cycle and refuse storage, contrary to the development plan taken as a whole. The benefits of the scheme would be limited and not outweigh this harm. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR