



Appeal Decision

Site Visit made on 12 July 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 September 2021

Appeal Ref: APP/E5900/W/21/3271128

642 Mile End Road, London E3 4LH

- 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 Prime Homes against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/20/01403, dated 2 July 2020, was refused by notice dated 25 September 2020.
 - The development proposed is described as, "Two storey extension of existing rear and reconfiguration of existing to provide two self-contained flats".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were submitted at the appeal stage, which relate to the provision of external private amenity space, and bin and cycle storage. The 'Procedural Guide: Planning appeals – England' makes it clear that 'the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought'. I have considered whether these amended plans should be accepted, and as the revised proposals would materially alter the nature of the scheme, I have considered the same plans that the Council determined the planning application on. To do otherwise would deprive those who should have been consulted on the change, the opportunity of such consultation.
3. During the course of the appeal The London Plan¹ and the revised National Planning Policy Framework (the Framework) were published, which replaced all previous versions. The parties were provided with an opportunity to comment on their relevance to this appeal, and I have taken the comments received into account in my determination of this appeal.

Main Issues

4. The main issues are:
 - Whether the proposal would preserve or enhance the character or appearance of the Tower Hamlets Cemetery Conservation Area;
 - the effect of the proposal on the living conditions of neighbouring occupiers, with particular reference to daylight, sunlight, privacy, and outlook;

¹ The London Plan (published 2021)

- whether the proposal would provide adequate living conditions for future occupiers of the scheme, with particular reference to the provision of internal space, and the provision of private amenity space; and
- the effect of the proposal with respect to pedestrian safety and sustainable transport.

Reasons

Conservation area

5. The appeal site comprises a 3-storey end-of-terrace property with a basement which serves a ground floor retail unit. Accommodation is also present in the roof. The site is within the Tower Hamlets Cemetery Conservation Area (conservation area). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s72(1) that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
6. The significance of the conservation area, as a whole, as a designated heritage asset is derived predominantly from its Victorian-era properties which exhibit fine architectural details, including traditionally-styled windows. The appeal site contributes to the significance of the conservation area primarily by being an end-of-terrace Victorian-era property which, due to its scale and detailing, complements the largely uniform character of the terrace as a whole.
7. Adjacent to the site on Brookesley Street is a long terrace of 3-storey properties, with a regular arrangement of windows and doors on all 3 floors. The proposed 2-storey rear extension would protrude across a considerable portion of the existing gap between the site and that adjoining terrace.
8. As such, although it would be subservient in height to its host property and appropriate materials would be used, it would still be a structure of considerable bulk and massing. It would noticeably rise above the adjoining terrace and the side elevation of the extension, closest to the footway, would jut out beyond it. It would also extend noticeably higher than the rear extension of the end-of-terrace property on Brookesley Street, directly opposite the site. Considering this, it would not constitute a natural and sympathetic step down from its host property, but would appear as an overly-dominant feature which would not integrate well with its surroundings.
9. Furthermore, the proposed rear elevation would present a tall and predominantly blank façade, which would be visible from much of Brookesley Street, thereby harming the appearance of that street. In addition, the raised amenity area would be highly visible in the street scene, and it would appear as an anomaly in Brookesley Street where such areas are commonly found behind their host properties, away from the street frontage.
10. In light of the above, the proposal would undermine the presence of period architecture within the terrace and the wider conservation area, meaning that it would harm the significance of the conservation area as a designated heritage asset. As the harm would be localised, the proposal would cause less than substantial harm to the significance of the conservation area as a designated heritage asset, but nevertheless this harm is of considerable importance and

weight. The Framework advises that such harm should be weighed against the public benefits of the proposal.

11. In this regard, the proposal would bring the underused part of the appeal site into use. It would provide 2 residential units of accommodation in an accessible location. The type of units proposed, including a 1-bedroom flat and a 3-bedroom flat, would contribute to the mix of housing in the local area. The Framework makes clear that great weight needs to be given to designated heritage assets' conservation. I give moderate weight to the benefits of the proposal and find that they do not, either individually or cumulatively, amount to public benefits which outweigh the harm that would be caused to the significance of the conservation area.
12. I therefore find that the proposal would neither preserve nor enhance the character or appearance of the conservation area. Thus, the proposal would conflict with Policies D.DH2 and S.DH3 of the Tower Hamlets Local Plan 2031 (adopted 2020) (Local Plan) which collectively provide that, amongst other things, proposals must preserve or, where appropriate, enhance the borough's designated and non-designated heritage assets in a manner appropriate to their significance, and with Policies D3 and HC1 of The London Plan which collectively provide that, amongst other things, development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings.
13. As the proposal would be deficient in design terms, it would also conflict with Policy H2 of The London Plan which provides that, amongst other things, boroughs should pro-actively support well-designed new homes on small sites, and with section 16 of the Framework, which seeks to conserve and enhance the historic environment.
14. Although the appellant has referred to Policy D1 of The London Plan, that policy relates to area assessments and the preparation of development plans and accordingly it is not directly relevant to this main issue.

Living conditions of neighbouring occupiers

15. All the windows on the east façade of the proposed extension would have obscured glazing, and an opaque privacy screen would be placed to the side of the proposed amenity area, next to the rear of 644 Mile End Road (No 644). These features would prevent any overlooking into the adjacent flats and the alleyway. As these windows would be secondary windows to the new flats, a condition could be imposed to prevent them from being opened, as suggested by the appellant. Accordingly, the proposal would have an acceptable effect on the living conditions of neighbouring occupiers, with particular reference to privacy.
16. 644D Mile End Road (No 644D) is a flat located near to the existing side wall of the shop floor which is to the rear of 642 Mile End Road (No 642). I observed that the rear windows at No 644D receive restricted levels of daylight, as a wall and the tall side elevation of the adjacent terrace on Brokesley Street are positioned a short distance beyond those windows. Similarly, the windows on the west elevation also receive reduced levels of daylight due to the close proximity of the existing side wall of the shop floor. Therefore, although the rear courtyard area for No 644D is larger than the alleyway next to No 642 and

the side windows at No 644D are secondary windows, these side windows are important in ensuring that No 644D receives adequate levels of light.

17. The proposed 2-storey extension would extend past both of the side windows at No 644D. Due to its close proximity to those windows it would significantly reduce the light received to them. Considering the already-poor levels of light received to that property, on the evidence before me I find that the proposal would likely have an unacceptable effect on the living conditions of the occupiers of No 644D, with particular reference to daylight, and particularly in the afternoon, on sunlight.
18. The proposed extension would be positioned very close to the windows which provide daylight to the common stairwell which serves 644A and 644B Mile End Road (Nos 644A and 644B). Although these are not habitable rooms, the light received to the stairwell is important to enable its safe use. Moreover, as the main living areas in those properties have windows facing north, their respective kitchen windows provide an important source of light to the flats as a whole. These kitchen windows are set further apart from the proposed extension than the stairwell windows, but daylight to them has already been compromised by the 3-storey terrace opposite.
19. Considering the importance of the light received to the stairwell and the kitchen windows, and the scale and position of the proposed extension, based on the evidence before me I consider that the proposal would be likely to have an unacceptable effect on the living conditions of the occupiers of Nos 644A and 644B, with particular reference to daylight. Similarly, although these rear windows are south-facing and Nos 644A and 644B are positioned to the east of the location for the proposed extension, it would likely further compromise the levels of sunlight that the flats receive from the late afternoon during some months of the year. Although this loss of sunlight would likely not be excessive, in the context of the already fairly poor levels of light received to those flats as a whole, based on the evidence before me, the proposal would likely reduce the levels of sunlight received to those rear windows by an unacceptable amount.
20. The proposed extension would be positioned near to the kitchen windows of Nos 644A and 644B. However, these spaces are not the principal living areas in those flats and despite the wide side elevation of the terrace opposite, a fair amount of outlook would remain from both of those kitchen windows. However, the proposed extension would be positioned directly adjacent to the alleyway which serves No 644D. At the scale and position proposed, it would considerably reduce the outlook from both the alleyway and the side windows of No 644D.
21. Taking all of the above into account, I therefore find that the proposal would have an unacceptable and harmful effect on the living conditions of the occupiers of No 644D with particular reference to daylight, sunlight and outlook, and that it would have an unacceptable and harmful effect on the living conditions of the occupiers of Nos 644A and 644B with particular reference to daylight and sunlight. As such, the proposal would conflict with Policy D.DH8 of the Local Plan which provides that, amongst other things, development is required to protect and where possible enhance or increase the extent of the amenity of new and existing buildings and their occupants, and with Policy D3 of The London Plan which provides that, amongst other things, development proposals should deliver appropriate outlook and amenity.

Living conditions for future occupiers

22. The proposal would create a replacement family unit on site. This proposed 3-bedroom flat would comply with the minimum internal space standards for new dwellings as set out in Table 3.1 of Policy D6 of The London Plan. The proposal would rely on extensions for these requirements to be met, but the layout proposed would allow easy access to all the living areas proposed.
23. The proposed 3-bedroom flat would not incorporate any private external amenity space, contrary to Policy D.H2 of the Local Plan, which provides that, amongst other things, where applicable, a retained family unit should have access to a private garden. This aspect of the proposal would also be at variance with Policy D.H3 of the Local Plan, which specifies the size of private outdoor space which should be provided.
24. The appellant has referred to the constraints of the site and the characteristics of the locality but I am mindful that Policy D6 of The London Plan aims to ensure that housing development provides comfortable and functional layouts which are fit for purpose and meet the needs of Londoners. The lack of private amenity space for the proposed 3-bedroom flat conflicts with these aspirations in that there would not be enough play space for children, nor adequate space for entertaining or relaxing.
25. I therefore find that the proposal would not provide adequate living conditions for future occupiers of the scheme, with particular reference to the provision of private amenity space. As such, it would conflict with Policies D.H2 and D.H3 of the Local Plan which collectively provide that, amongst other things, where applicable, the retained family unit should have access to a private garden, and with Policy D6 of The London Plan, which provides that, amongst other things, housing development should be of high quality design with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners without differentiating between tenures.

Pedestrian safety & sustainable transport

26. The proposal would incorporate bin store doors which would swing outward onto the footway, thereby potentially causing an obstruction to pedestrians. Additionally, the proposed cycle storage would be located in the stairwell which, due to its likely primary use by the intended future occupiers of the scheme to access the stairs, would not be an appropriate location for the storage of bicycles. I therefore find that it has not been demonstrated that the proposal would not have an adverse effect on pedestrian safety, and furthermore, based on the evidence before me, I find that the proposal would not make adequate provision for sustainable transport options.
27. Thus, the proposal would conflict with Policy D.MW3 of the Local Plan which provides that, amongst other things, all new development must include sufficient accessible space to separate and store dry recyclables, organics and residual waste for collection, and with Policy T5 of The London Plan which provides that, amongst other things, development proposals should help remove barriers to cycling and create a healthy environment in which people choose to cycle.

Other Matters

28. The appellant has engaged in dialogue with the Council, which has resulted in the proposal before me. However, this is a neutral matter, which does not weigh in favour of the proposal.
29. The proposal would provide accommodation on a currently underused site, although it has not been demonstrated that the proposal would optimise the potential of the site as required by paragraph 130 e) of the Framework. It would also support the Government's objective of significantly boosting the supply of homes, and would contribute to the mix of housing in the local area. In this respect, paragraph 69 of the Framework provides that, amongst other things, small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. However, taking account of my findings on the first main issue, the proposal would not accord with Policy H2 of The London Plan, as that policy relates to well-designed new homes.
30. Moreover, paragraph 1.2.5 of The London Plan provides that, amongst other things, all options for using the city's land more effectively will need to be explored as London's growth continues, including the redevelopment of brownfield sites and the intensification of existing places, including in outer London. Furthermore, section 11 of the Framework seeks to make an effective use of land, and more specifically, paragraph 120 of the Framework provides that, amongst other things, planning decisions should promote and support the development of under-utilised land and buildings.
31. Accordingly, collectively I have given these matters moderate weight. However, the combined planning harm identified on all the main issues would be very significant and therefore all these considerations are not sufficient to outweigh that harm, nor the conflict with the development plan identified.

Conclusion

32. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal is dismissed.

Alexander O'Doherty

INSPECTOR