



Appeal Decision

Site Visit made on 19 October 2021

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2021

Appeal Ref: APP/E5900/W/21/3274318

42- 44 Brick Lane, London E1 6RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr N Zolger (Zolger Developments Limited) against the decision of London Borough of Tower Hamlets.
 - The application Ref PA/20/01617, dated 29 July 2020, was refused by notice dated 12 November 2020.
 - The application sought planning permission for the construction of a rear extension and mansard roof including reconfiguration of the existing apartments to accommodate 2x one bedroom, 2x two bedroom and 1x three bedroom residential flats without complying with a condition attached to planning permission Ref PA/19/02707, dated 15 May 2020.
 - The condition in dispute is condition No 2 which states that: 'The development hereby permitted shall be carried out in accordance with the approved plans listed in the Schedule to this planning permission'.
 - The reason given for the condition is: 'For the avoidance of doubt and in the interests of proper planning'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In seeking to vary condition 2 the appellant seeks to reconfigure the previously approved layout, by relocating the bin storage area from the ground floor to the first floor, increasing the size of the ground floor retail shop as a result.

Main Issue

3. The main issue is whether the proposal makes adequate provision for waste facilities and collection.

Reasons

4. Positioned on the first floor, the proposed refuse store would provide a convenient and accessible location for the residents of the proposed flats to deposit waste.
5. The proposed location would ensure that future residents do not need to walk up and down the stairs to the ground floor each time they wish to deposit a refuse bag. However, on collection days it would necessitate a reasonably large volume of waste to be transported down the stairs.

6. Although the appellant has provided evidence that a company would be able to undertake this work, the lifting of the volume of waste associated with five flats down the stairs for collection would result in a tripping risk. Moreover, I have no certainty that such private collection arrangements could be secured indefinitely. Although difficult to quantify, this would have the potential to cause inconvenience to future occupiers, seeking alternative arrangements. There are no such concerns from the collection from the ground floor refuse store direct to the footway.
7. Whilst there is no specific requirement before me that waste facilities for all developments must be located on the ground floor, given the need to carry the waste internally down the stairs for collection, the waste facilities would not be particularly accessible. Nor would the proposed arrangements be a convenient or efficient means of collecting the waste.
8. The refuse room would be ventilated and would be of a size that would ensure that there is sufficient space for the needs of future residents. However, such matters, or any mitigation around cleansing and fire risk arrangements are neutral matters. They are not specific benefits and therefore weigh neither for nor against the proposal.
9. I therefore conclude that the proposal would not make adequate provision for waste facilities and collection. The proposal would therefore conflict with Policy D.MW3 of the Tower Hamlets Local Plan (2020) (LP). This stipulates that, amongst other things, all new development must include sufficient accessible space to separate and store dry recyclables, organics and residual waste for collection, both within individual units and for the building as a whole. The Council also refer to Policy D.MW2 of the LP in its reason for refusal. However, this relates to new and enhanced waste facilities and as such has not been determinative in my assessment.
10. The appellant refers to various paragraphs of the National Planning Policy Framework (the Framework), including the presumption in favour of sustainable development. The extent of benefits would be small from the small amount of additional retail space and the small improvement to the shop front's appearance in the street scene with the omission of the bin store.
11. Good design is a key aspect of sustainable development and the Framework, amongst other things, seeks developments that function well and are accessible. As such, the small benefits outlined, do not outweigh the harm that I have identified emanating from the design, which would not result in adequate provision for waste facilities and collection.
12. The reduction in the size of flat two would be small and there would still be sufficient space to ensure that future occupiers would have acceptable living conditions. However, the absence of harm in relation to this matter weighs neither for, nor against, the proposal.
13. In conclusion, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict. Therefore, the appeal is dismissed.

Mr R Walker

INSPECTOR