
Appeal Decision

Site visit made on 25 April 2023

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 May 2023

Appeal Ref: APP/E5900/W/22/3310214

Flat 2, 90 Rosebank Gardens North, Tower Hamlets, 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 (Wellhill Estates Ltd) against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/22/00537, dated 18 March 2022, was refused by notice dated 5 May 2022.
 - The development proposed is a rear extension to 1st floor flat with roof terrace.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of occupiers of neighbouring dwellings.

Reasons

3. The appeal site includes part of a three-storey building which hosts three flats, one to each floor, to the rear of No's 498 and 500 Roman Road. The appeal flat includes a roof terrace to the rear, while there is an area of flat roof to the side. The proposal would see a rear extension erected where the existing roof terrace lies, and a new terrace area created to the side.
4. The adjoining flat to the rear of No. 502 has rear windows facing Rosebank Gardens North in the same manner as the appeal property. The erection of an extension, which would have a projection of 4.2 metres (m) and a height reaching the third floor of the host building would introduce an imposing structure in views from the rear windows of this neighbouring flat which would reduce outlook to this side and create an overbearing sense of enclosure for its occupiers. Moreover, due to the orientation of the windows relative to the appeal site, there would be a reduced level of daylight and sunlight in the early evening hours.
5. There is also a flat located in the front section of No. 498 which has a rear window that looks out the flat roof to the side of the appeal property. I have had regard to the previous appeal¹ at the site which advises the window serves a bedroom. This window appears to have a reasonable level of outlook although I take on board that this view would already be partially obscured by built form to either side.

¹ APP/E5900/W/20/3259437

6. The proposed terrace area would be located 6.5m from the window of this flat and extend 1.5m across the width of the section of flat roof. It would also have a 1.7m high palisade fence for privacy to two sides. Due to its proximity and the height of the fence, this would reduce the outlook from this window for occupiers of this flat, and although consideration has been given to the design in order to lessen the impacts from the previous scheme, this would still increase the sense of enclosure for occupiers. Moreover, ambient light and direct sunlight would also be reduced significantly. While the latter may well be for around one hour a day when the sun passes the gap between built form, this would be a time when daylight and sunlight was strongest for its occupiers and the reduction would make the property a less pleasant place to occupy as a result.
7. There is an adjacent pair of semi-detached dwellings to the west in a courtyard area whose rear elevations face the appeal site. Evidently, their rear elevations are set approximately 2.5m from the boundary wall between the two buildings which rises to a height of around 3m. I was able to observe on the site visit that the upper floor windows of both semis, which serve bedrooms, were visible from the rear of the appeal property.
8. The proposed terrace area and rear extension would be visible from the upper floor windows of the semis and would reduce outlook from these viewpoints through the introduction of a solid wall and the palisade fence of the terrace. Moreover, due to the orientation of the proposal relative to the windows, this would reduce daylight significantly while also reducing direct sunlight in the morning hours.
9. From the ground floor windows of the semis, views would primarily be of the boundary wall. Given the small depth of the rear spaces of these buildings, the introduction of the terrace, which would be set back, and extension would be unlikely to affect outlook or daylight from this vantage point.
10. I understand that the appellant owns the flats in question within No's 498 and 502. However, that carries no weight in my decision making. The National Planning Policy Framework (the Framework) is clear that development should ensure a high standard of amenity for existing and future users. The occupiers of the properties, whether tenants or owners, are the users in this context.
11. Evidently, No. 500 Roman Road had planning permission granted² to convert the upper floors into a flat which included works to extend it to the rear within 2.5m of the appeal flat. I am also informed that other properties nearby have similar window/built form relationships in terms of their separation distances, although I have nothing before me to substantiate this. In any event, I can only assess the proposal based on the evidence before me and the Council's decision in that matter does not affect my assessment of the appeal proposal.
12. The proposal may improve the living conditions of the occupiers of the property by increasing the floor space, which would also evidently allow the property to meet the Nationally Described Space Standards. It is argued this would constitute optimising the potential of the site in line with the aims of the Framework. However, this is not unconditional, and these matters must be balanced against other considerations such as those forming the main issues of

² PA/15/03558

this appeal. As such, these benefits would not outweigh the harm I have identified to the living conditions of occupiers of neighbouring dwellings.

13. Drawing things together, I find the proposal would unacceptably harm the living conditions of neighbouring occupiers of several properties with regards to outlook and access to light. The proposal would therefore conflict with Policies S.DH1 and D.DH8 of the Tower Hamlets Local Plan 2031 (THLP) which seeks, amongst other matters, development to be of a high-quality design which protects the amenity of the occupants of new and existing buildings.

Other Matters

14. The appeal site is located within the Medway Conservation Area (MCA). 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. The Council has not highlighted harm to the MCA as a reason for refusal. Based on the evidence before me and my own observations, I see no reason to disagree with this conclusion.

Conclusion

15. The proposal would harm the living conditions of occupiers of several nearby dwellings. 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. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR