



Appeal Decision

Site visit made on 26 June 2023

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th July 2023

Appeal Ref: APP/E5900/D/23/3316536

13 Billson Street, Tower Hamlets, London E14 3DA

- 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 B Smith against the decision of the London Borough of Tower Hamlets Council.
 - The application Ref PA/22/01877, dated 14 September 2022, was refused by notice dated 23 November 2022.
 - The development proposed is a front extension and ground and first floor rear extensions. Loft conversion involving the erection of a rear dormer window and hip to gable roof alteration.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. As the description of development varies between documents submitted, I have used the description from the Council's decision notice, as this accurately describes the proposal and has been used by the appellant for their appeal statement.
3. As part of their appeal submission the appellant has submitted a revised block plan, plan No 2234-01-00 Rev A to replace an incorrect block plan submitted with the application. This is intended to overcome concerns expressed by the Council with regard to clarity of the intended design and extent of the proposal. Given that the Council and other interested parties have had opportunity to comment on the revised plans, I have accepted the drawing as a correction in line with the Wheatcroft principles¹.

Main Issue

4. The main issue is the effect of the proposal on local housing provision.

Reasons

5. The appeal property is a two storey flat roofed end of terrace house. The design of the proposal would appear to be identical to a previous approval for the

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

redevelopment of the existing building in HMO C4 use and the construction of a replacement dwelling house in C3 use². As part of this previous application the appellant sought to establish that the existing building was in use as an HMO in C4 use. As the proposed C3 use was preferable to the Council, the existing use of the appeal property as an HMO in C4 use was not investigated or tested by the Council at that time.

6. It is noted that there is an Article 4 Direction³ in place in for the Council area that requires a planning application for a change of use from a dwelling in C3 to a C4 use. The Council have confirmed that there is no planning permission or certificate of lawful development in place for this current use as an HMO in C4 use. However, from the information before me, the appeal property would appear to be in use as an HMO in C4 use and it would appear that the proposal would result in the proposed development being in the same use.
7. The proposal was submitted as an extension to the existing building on the appeal site. However, the proposal includes the retention of the gable wall of the existing building, whilst the rest would be demolished, with the exception of the party wall with the adjoined terraced house at Billson Street.
8. The appellant has set out that they consider that, with the retention of the gable wall, the proposal constitutes an extension of the existing property rather than a redevelopment. Whether a proposal is for demolition and redevelopment, or extension, is a matter of fact and degree, and in light of all the relevant circumstances, as established by the Shimizu judgement⁴.
9. In this instance, I find that the retention of the existing gable wall and removal of the main front and rear elevations, along with the internal floors and the roof of the existing building is substantial, and does not, therefore, amount to a building operation. Rather, I find that the proposed removal of these elements of the existing building would be to the extent that it would amount to substantial demolition of the existing building. Consequently, I find that the proposal to replace these demolished elements constitutes a redevelopment of the existing building and would not be an extension to an existing building.
10. As such, the proposal would result in the loss of an existing single large family sized dwelling to be replaced by a house in HMO C4 use. No information was provided with the application with regard to the effect of the loss a single large family sized dwelling on local housing provision, and the appellant has not provided any further information with their appeal in this regard.
11. For these reasons I find that the proposal would result in the loss of a large family sized dwelling, for which there is an evidenced need. The proposal would not, therefore, accord with policies S.H1 and D.H2 of the Tower Hamlets Local Plan 2031 (2020), policy H.10 of the London Plan (2021) and paragraph 124 of the National Planning Policy Framework (2021). These collectively seek to ensure that development reflects the identified need for different types of housing.

² PA/21/01500

³ Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015

⁴ Shimizu (UK) Ltd v. Westminster City Council [1997] 1 WLR 168; [1997] 1 All ER 481

Conclusion

12. For the reasons given above and having regard to all matters raised, the appeal is dismissed.

Victor Callister

INSPECTOR