



Appeal Decision

Site visit made on 20 June 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2023

Appeal Ref: APP/E5330/W/22/3311946

11 Canal Walk, Meadowcourt Road, Blackheath, Greenwich SE3 9AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Cyrus Homes Limited against the decision of Royal Borough of Greenwich.
 - The application Ref 22/1071/F, dated 25 March 2022, was refused by notice dated 28 July 2022.
 - The development proposed is described as, 'Side extension to the property at ground floor to provide home working space, formation of roof terrace at first floor, associated internal and external alterations and the provision of cycle parking'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the above banner heading has been taken from the original application form. The description within the decision notice however includes for a rear roof terrace at first and second floor. It is clear within the officer's report that the second-floor terrace has already been granted planning permission on appeal. The appellant confirms that this element does not form part of the planning application. It is not therefore necessary for me to consider that matter further. In light of this, the appellant has provided a revised description of development which is similar to that on the original application form. I do not therefore find it necessary to alter this description.
3. The appellant has submitted an Internal Daylight Assessment along with amended plans which relate to the inclusion of an additional window to overcome the Councils' concerns. Given the contents of the Daylight Assessment, my acceptance of this is not considered prejudicial to any party and I have taken this into account in reaching a decision. However, my acceptance of the amended plans could be considered prejudicial to third parties and may also have implications for the historic environment taking into account the group of locally listed buildings. Accordingly, I have determined this appeal on the basis of the plans the Council based its decision on.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the living conditions of the occupiers of No 1-4 Canal Walk (No 1-4) in relation to privacy; and

- Whether the proposed development would provide satisfactory living conditions for existing and future occupiers in respect of outlook and daylight.

Reasons

Living conditions – privacy

5. The appeal site relates to a three-storey mid terrace property which forms part of a short terrace of other similar buildings providing both commercial and residential uses. The property extends further back to the rear with a number of projecting elements that step down in height towards the rear and a roof terrace has been constructed above the flat roof of the second floor. The property backs onto Canal Walk which comprises a narrow private access road providing access to the properties along the terrace including the appeal property. Residential properties No 1-4 are located along the east of Canal Walk. These properties have direct frontage onto the access road and have direct outlook onto the rear elevation of the terrace.
6. The proposed development amongst other works, would introduce a further terrace to the rearmost part of the property, above the single storey flat roof element at first floor level. This would provide amenity space for the existing occupiers and would be enclosed by a timber balustrade similar to that constructed at second floor level. The single storey element abuts Canal Walk and is therefore in close proximity to the front elevations of residential properties No 1-4. These properties are two storeys in height and their first-floor windows and balconies are level with the ridge of the single storey element.
7. Given the close relationship and siting of the proposed roof terrace at first floor level, it would allow for direct views from the terrace into the windows of No. 1-4 which would result in an undue loss of privacy for the existing occupiers. The timber balustrade including its design would be insufficient to overcome this harm as overlooking would still occur when utilising the roof terrace particularly when stood up as it cannot be assumed that occupants would always sit down.
8. I accept that the site is located within a dense urban context where roof terraces and balconies are characteristic of the area and that a level of overlooking already exists. To this end, my attention has been drawn to other similar roof terraces nearby including the appeal decision for the second-floor roof terrace at the appeal site under reference APP/E5330/W/21/3276586. However, this appeal related to a section of the building which is located at a much higher level and is set much further back from Canal Walk and thus it is not directly comparable to the appeal before me.
9. I acknowledge that other approvals may exist for extensions/terraces within the locality including No 4 Canal Walk and No 137 Lee Road. Whilst details of these permissions are limited, I was able to see the roof terrace at No 137 Lee Road, but I am not convinced that this roof terrace is directly comparable to the appeal scheme having regard to its specific location at the end of the terrace and the relationship that exists between properties. Neither is it a justification for the further harmful loss of privacy and I have considered this proposal on its own individual planning merits and the evidence before me.

10. I note the appellant's comments regarding objections raised as well as letters of support received regarding the proposed development. However, such matters would not alter my findings on this main issue.
11. For the above reasons, I conclude that the proposed development would have a significant harmful effect on the living conditions of the occupiers of No 1-4 Canal Walk in relation to privacy. As such, it would be contrary to Policy DH (b) of the Royal Greenwich Local Plan Core Strategy with Detailed Policies, 2014 (CS) which amongst other matters, requires development to not cause an unacceptable loss of amenity to adjacent occupiers by reducing the amount of privacy they enjoy. For the same reasons, the proposed development would also be contrary to the Royal Borough of Greenwich Residential Extensions, Basements and Conversions Guidance Supplementary Planning Document, 2018.

Living conditions - outlook and daylight

12. In addition to the above works, the proposed development involves the construction of a single storey rear side extension at ground floor level which would infill the gap which currently exists between the rear outrigger and the boundary to the side of the property. It would reduce the size of the rear ground floor window serving bedroom 2 and would result in the loss of the window serving the home office area/living room.
13. I note the Council's concern regarding outlook and daylight of these rooms. However, there would still be a window albeit reduced in size serving bedroom 2 and a rooflight would be installed in the flat roof of the proposed extension serving the office area/living room. Both would be of a good size which would provide a level of daylight for occupiers. I have had regard to the Internal Daylight Assessment submitted which confirms that bedroom 2 benefits from good levels of daylight and whilst the reduction in the size of the window would reduce the levels received, it would still satisfy the BRE Guidance. The office area/living room already falls below the threshold, and the proposed development would indeed increase the levels of daylight serving this room.
14. I accept that levels of outlook would be restricted particularly for the home office area/living room. However, outlook is already limited due to the windows fronting onto the narrow courtyard and boundary fence. Additionally, the property benefits from other habitable spaces at ground floor level where there are other windows offering similar levels of outlook.
15. For the above reasons, I conclude that the proposed development would provide satisfactory living conditions for existing and future occupiers in respect of outlook and daylight. As such, it would comply with Policy D6 of The London Plan, The Spatial Development Strategy for Greater London, 2021 and Policy DH1 of the CS which together, amongst other matters, seek to create well-functioning spaces providing sufficient daylight and sunlight.

Other Matters

16. The proposed development would provide valuable external amenity space and additional internal living space for the property, and I appreciate the changing needs of occupiers following the Coronavirus pandemic. I also appreciate the existing position in relation to amenity space including nearby provision and

the importance of having access to good quality amenity space. However, such factors would not be sufficient to outweigh the harm I have identified above.

17. The site does not lie in a Conservation Area although it is undisputed that the appeal site forms part of a group of locally listed buildings (Nos. 121-137 Lee Road). The Council do not raise any particular concern with regard to the principle of development, design and conservation as well as the impact on amenity of Nos. 121 – 135 Lee Road and I have no reason to disagree. This, together with the lack of adverse impacts including flood risk and highways are neutral matters in my overall decision and would not be sufficient to outweigh the harm identified.

Conclusion

18. Although the development would provide satisfactory living conditions for existing and future occupiers in respect of outlook and daylight, the proposed development would have a significant harmful effect on the living conditions of the occupiers of No 1-4 Canal Walk in relation to privacy. It would therefore conflict with the development plan as a whole. There are no other considerations that individually or cumulatively outweigh this harm and development plan conflict. The appeal should therefore be dismissed.

N Teasdale

INSPECTOR