



Appeal Decision

Site visit made on 19 February 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th February 2024

Appeal Ref: APP/E5900/W/23/3327317

Flat 1, Hyperion House, 35 Arbery Road, Tower Hamlets, London E3 5DF

- 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 Aktar Rahman of LampLighter Homes Limited against the decision of the London Borough of Tower Hamlets.
 - The application Ref PA/22/02445.
 - The development proposed is back corner garden shed for storage purpose only.
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Decision

1. The appeal is allowed and planning permission is granted for back corner garden shed for storage purpose only at Flat 1, Hyperion House, 35 Arbery Road, Tower Hamlets, London E3 5DF in accordance with the terms of the application, Ref PA/22/02445, dated 19 May 2023, and the plans submitted with it.

Preliminary Matters

2. The application form states that work began in February 2022 and at the time of my visit I saw that the external works to the appeal building were complete. I note that the application has been dealt with retrospectively. I have dealt with the appeal on that basis.
3. In that context, the Council is concerned with the accuracy of the plans. Although plans are not necessary to determine such appeals, those submitted are not significantly different to that applied for and built. I have therefore taken them into account.

Main Issues

4. The main issues are the effect of the development on (i) the character and appearance of the area; and (ii) the living conditions of nearby occupiers, with particular regard to outlook and privacy.

Reasons

Character and appearance

5. The appeal site is within the garden of a ground floor flat that forms part of a large modern residential block. It is adjacent to the Medway Conservation Area (CA), which is characterised by its regular layout of small scale streets and terraces. It is within its setting, where great weight should be given to the asset's conservation.
6. The robust, flat roof appeal building is close to, but set slightly back from a tall brick wall. This wall wraps around the side and main street frontage. It includes

sections of timber panelling and forms a stark and enclosed boundary frontage to the residential block. The appeal building spans much of its narrow garden width, though covers a small overall part of the private garden space. With a height of approximately 3.5m, the building is taller than other outbuildings in the area, though not excessively so. It is marginally taller than the boundary walls and fencing. As such, it can be seen from the CA. However, the overall scale and bulk of the building is modest. Consequently, it does not dominate the garden space it lies within or the adjoining private garden.

7. Additionally, due to the very small protrusion above boundary features and nearby taller vegetation, views of the appeal building from the surrounding streets, including from within the CA are limited. Furthermore, the dull grey roofing material and brick construction are tonally similar to the foreground of brick and timber boundary fencing, which softens its appearance. Moreover, the rhythm and legibility of design features such as window arrangements within the adjoining residential block and round side elevation windows of a nearby building are not disturbed by the appeal building's presence. In that context, neither is the setting of the adjacent terrace within the CA. For these reasons, the development has a neutral effect on the setting of the CA, thus preserving the heritage asset in accordance with Policy S.DH3 of the Tower Hamlets Local Plan 2031, January 2020 (THLP).
8. Therefore, I conclude on this main issue that the development preserves the character and appearance of the area. As such, it does not conflict with Policy S.DH1 of the THLP or Policy D1 of the London Plan March 2021 (LP). Amongst other things, these policies seek to promote developments that are of an appropriate scale, mass and bulk, complementing streetscape rhythm.

Living conditions

9. The Council is concerned that insufficient information has been provided to assess the effect of the development on the living conditions of neighbouring occupiers. I do however note that there was no site visit carried out as part of this assessment. Whilst the concerns over the potential use of the appeal building are acknowledged, I saw that it contained a proportionate collection of various domestic items, consistent with the proposed use. Whilst my observations only represent a snapshot in time, there is no substantive evidence before me that shows the appeal building is not being used for its intended purpose, as applied for.
10. At my visit, I observed that the appeal building had no windows in its side or rear elevations, which negates overlooking possibilities. Notwithstanding this, there is already a degree of mutual overlooking between garden spaces due to a lower level dividing wall. Additionally, a garden storage shed is likely to generate very low levels of activity over short periods. For these reasons, the privacy of neighbouring occupiers is maintained by the development.
11. As I have already concluded above, the scale and massing of the building is modest and does not appear out of place. There is no increased sense of enclosure and therefore the outlook from neighbouring gardens is not harmfully affected.
12. For the above reasons, I conclude on this main issue that the development does not cause unacceptable harm to the living conditions of nearby occupiers, with particular regard to outlook and privacy. As such, it does not conflict with

policies S.DH1 and S.DH8 of the THLP which, collectively in this respect, promote development that maintains good levels of privacy, avoiding overdevelopment and an unacceptable increase in the sense of enclosure.

Other Matters

13. I have paid regard to third party concerns over the safety of the appeal building's construction. However, this is not a matter for this appeal. My decision is based on the planning merits of the case.
14. The Council's Heritage and Urban Design Officer highlights concerns over a precedent that would be set in allowing the development. The appeal proposal is however unique to this particular plot. In that context, I have concluded that the development is of an appropriate scale, based on my own observations and the evidence before me. In any case, it is a long established principle that each case is assessed on its individual merits.
15. The Council has not suggested the inclusion of any conditions. Given the nature of the development and the fact that it has already taken place, I do not consider any conditions to be necessary.

Conclusion

16. For the reasons given I conclude that the appeal should succeed.

J Hills

INSPECTOR