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# Appeal Decision

Site visit made on 9 July 2024

**by K Williams MTCP (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15<sup>th</sup> July 2024**

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**Appeal Ref: APP/U5360/W/23/3328169**

**29 Shore Road, Hackney, London E9 7TA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Property Warehouse Ltd against the decision of the Council of the London Borough of Hackney.
  - The application Ref is 2023/1011.
  - The development proposed is described as 'rear infill extension to match existing rear building line and increase size of 10 existing dwellings. New external stair.'
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. I was unable to obtain access to the rear of the appeal site and I took the opportunity of viewing what I could of the site from the public realm. However, I was able to attend an arranged visit to view the appeal site within the neighbouring gardens of No 31a and 31b Shore Road. I advised the appellant that had allowed me sufficient opportunity to view the site in the context of the main issues below. The appellant subsequently agreed they were content for me to proceed on this basis.

## Main Issues

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of No's 31a and 31b Shore Road with particular regard to outlook, daylight and sunlight.

## Reasons

5. The appeal site comprises an existing five storey building in use as flats at No 29 Shore Road. It is located within an area characterised by large and taller development. Land levels are predominantly flat and the layout of the buildings in the immediate area between Well Street, Shore Road, Tudor Road and Tudor Grove is particularly close knit. No 29 is located directly to the south of No 31 Shore Road. No 31 is a semi-detached building of traditional appearance and of

a more modest scale in comparison to those in the surrounding area. It has been subdivided into No's 31a and 31b, both of which have a small outdoor garden areas at the rear. I observed the relationship between No's 31a and 31b and the appeal property during the mid-afternoon.

6. The development would infill an area that would almost square off the north west corner of the five storey host building. The proposal would provide improvements to the layout of the existing building, and future occupiers would be afforded good sized accommodation to the degree that it could meet the requirements of Policy D17 of the of the of the Hackney Local Plan 2033 adopted July 2020 (the Local Plan) and Policy D6 of The London Plan adopted 2021 (the London Plan) which relate to room size standards and would provide external amenity space.
7. However, I observed that the off-set corner elevation of No 29 provided views of the sky and welcome relief from the surrounding heavily built up area and tall boundaries around the gardens of No's 31a and 31b. The extension would be positioned virtually on the southern garden boundary with No 31b and almost entirely along its full length. By extending to the rear, a high and imposing five-storey wall would be formed directly to the south of the gardens of No's 31a and 31b, and perpendicular to the rear windows on No's 31a and 31b. This has the potential to affect daylight and sunlight into the garden and property.
8. I have therefore had careful regard to the appellant's Daylight and Sunlight Report (the DSR). Whilst the DSR window maps do not show the rear of No's 31a and 31b, the DSR shows a notable reduction in the Vertical Sky Component and a reduction in skyline, and Annual Probable Sunlight Hours (APSH) to room R2 and window W2. This reduction in APSH would be particularly marked from ten hours to zero hours during winter.
9. Although daylight and sunlight to No's 31a and 31b are already compromised and the evidence in the DSR suggest that resultant daylight and sunlight levels to most rooms and windows largely fall within acceptable parameters. In my view in this tightly constrained space whereby the properties have small rooms, existing levels of daylight and sunlight are particularly important, and further reductions are likely to be more keenly felt than in a larger property, or one which is not surrounded by taller development. Even though the rear projection of the building juts out beyond rear windows of No 31a, I cannot be certain there would not be a notable reduction to rear windows here, as it is not clear whether these have been assessed.
10. In any event, the DSR provides technical analysis, which does not go into significant detail in terms of analysing outlook, on the gardens or the rear windows of No's 31a and 31b which involves other considerations. The proposed development would substantially add to the existing overall amount of built development which already surrounds No's 31a and 31b. The large mass of building would tower over the constrained garden spaces at the rear. This would have a significant overbearing effect that would create a harmful sense of enclosure, as well as additional overshadowing. It would significantly affect the outlook and enjoyment of the garden areas.
11. Whilst the development would not be located directly opposite the rear windows of No's 31a and 31b, it would nevertheless, be very apparent and imposing in oblique views from the rear windows and would significantly curtail

the outlook from the ground floor window of No 31b. Regardless of its use as either a day room or a bedroom, occupants would be likely to use this room often, particularly as it opens directly into the main rear garden space.

12. I acknowledge that the supporting text of Policy LP2 of the Local Plan states the Building Research Establishment guidance (BRE guidance) on sunlight and daylight will be operated flexibly in similar locations to the appeal site. Notwithstanding this the wording of the policy seeks to ensure significant adverse effects on amenity of neighbours are avoided and consideration of the merits of the development proposals are balanced against the impact on amenity.
13. The proposal would provide improvements to the layout of the existing building, and future occupiers. Economic benefits would also flow from the development during construction. However, given the small quantum of housing that would be improved, the social and economic benefits of the proposed development would be small.
14. For the above reasons, I therefore conclude that the proposed development would harm the living conditions of the occupiers of No's 31a and 31b Shore Road with particular regard to outlook, daylight and sunlight. The proposal would conflict with Policy LP2 of the Local Plan, which insofar as it is relevant to the appeal seeks to ensure, amongst other matters, that development is designed to ensure significant adverse impacts are avoided.
15. Policy D4 of the London Plan does not relate to the effect of development on living conditions. The Council has not provided the Hackney Residential Extensions and Alterations Supplementary Planning Document 2009 (the SPD). As such I have no substantive evidence the proposed development would conflict with Policy D4 of the Local Plan or the SPD.

### **Other Matters**

16. My attention has been drawn to an appeal decision<sup>1</sup> at a different Council. Whilst the Inspector considered similar issues of daylight, sunlight and outlook, I have not been provided with substantive details of this proposal, and it differs from the one before me as it is apparent that it relates to an upwards extension. I also cannot be certain that the surrounding context or relationship with neighbouring properties is the same. Therefore, it is not possible to draw comparisons to this appeal to the extent where the weight to be given to that decision is sufficient to alter my findings. In any event, each case has to be assessed on its individual merits.

### **Planning Balance and Conclusion**

17. Notwithstanding that I have not found conflict with Policy D4 of the London Plan and the SPD, this does not outweigh the harm or conflict with Policy LP2 of the Local Plan.
18. The proposal would harm the living conditions of the neighbouring occupiers at No 31a and 31b in respect of outlook, daylight and sunlight. This matter attracts significant weight in my assessment and draws the scheme into conflict with the development plan when read as a whole. Given the scale of the harm

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<sup>1</sup> APP/G5750/W/22/3305679

that would occur, the adverse impacts of granting permission would outweigh the benefits.

19. Therefore, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*K Williams*

INSPECTOR