



Appeal Decision

Site visit made on 6 November 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 14 November 2024

Appeal Ref: APP/E5900/W/24/3346567

Flat 3, 3 Finchs Court Mews, Finchs Court, Poplar E14 0FY

- 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 Dr & Mrs Fazal & Aysha Mahmood, Newham Property Services against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/24/00332.
 - The development proposed is to provide and install additional and enlarged windows to bedroom and to kitchen/living room.
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Decision

1. The appeal is dismissed insofar as it relates to the proposed new window in the bedroom and the enlarged window in the kitchen.
2. The appeal is allowed and planning permission is granted insofar as it relates to the installation of a new window in the living space at Flat 3, 3 Finchs Court Mews, Finchs Court, Poplar, E14 0FY in accordance with the terms of the application, Ref PA/24/00332, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted (living space window only) shall be carried out in accordance with drawing nos: Site Location Plan (Promap); 3628/26; 3628/23B and 3628/24B.
 - 3) Details of the window including materials, finish, type of obscured glazing and window opening shall be submitted to and approved in writing by the local planning authority before the window is installed. The window shall be installed in accordance with the agreed details and once installed shall be retained thereafter.

Preliminary Matter

3. In the interests of clarity, I have taken the site address above from the planning application form referring to Flat 3 rather than Unit 3.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring flats located at 121-123 Poplar High Street with particular regard to privacy.

Reasons

5. The proposal includes the insertion of one new window to serve a bedroom, one new window to serve the living space and the enlargement of an existing window currently serving the kitchen area which would all be located on the western elevation which is situated on the boundary with the adjacent 121-123 Poplar High Street. Currently, the appeal property has only one high level window in the kitchen area. There are no other windows in the property. The appellant has identified a need to improve the living conditions provided by the appeal property in this regard, in order to provide more natural light.

Proposed enlarged kitchen window and new bedroom window

6. The existing kitchen window is a relatively small high level window, which means that views out of it towards the windows in the adjacent flats opposite are restricted. Given the size and positioning of the existing window it also does not result in the perception that anyone could readily look towards and into the windows opposite. However, if that window were to be enlarged as proposed, it would result in a window of much more significant presence than the current situation. The partial alignment of this window with the vertical arrangement of the windows at first and second floor level opposite would emphasise its presence to the occupiers of the adjacent flats.
7. The proposed bedroom window would be positioned so that direct views towards the windows at first and second floor level opposite would not be possible. Nevertheless, the presence of a new window would be readily apparent from the occupiers of the flats opposite, in oblique views.
8. Obscure glazing and limited openings are proposed for both the enlarged kitchen window and the new bedroom window, which would significantly restrict views from them. However, the separation distance to the windows in the flats opposite and the positioning and size of the proposed windows would result in a perception of overlooking. Therefore, even if there was no actual overlooking possible, the occupiers of the flats opposite would still be subject to a strong impression of being overlooked.
9. I note that interested parties have raised concerns about occupants of the appeal property being able to view residents using the adjacent external outdoor space when it is used for yoga, BBQs or other private activities, as a result of the proposal. Given the positioning of the bedroom and kitchen windows and the obscure glazing proposed, I do not find that they would have a significant detrimental impact on the privacy of the users of the adjacent outdoor space. Nonetheless, this does not overcome my concerns set out above in relation to the impact on the occupiers of the flats opposite.
10. I therefore find that the proposed enlarged kitchen and bedroom windows would result in a harmful effect on the living conditions of the occupiers of the flats opposite located at 121-123 Poplar High Street, with particular regard to privacy. This part of the proposal would be contrary to Policy D.DH8 of Tower Hamlets Local Plan 2031 Adopted January 2020 (LP) which seeks, amongst other things, that development must maintain good levels of privacy and avoid an unreasonable level of overlooking.

Proposed living space window

11. The proposal includes a new window in the living space which would be positioned directly opposite a section of blank brick wall that forms the eastern elevation of the adjacent building, 121-123 Poplar High Street.
12. The eastern elevation of the adjacent building steps back further north which creates a recess in the built form. This arrangement provides a barrier which would limit views towards the windows of the flats opposite that largely align with the existing kitchen window identified above. This barrier would also limit views of the proposed living space window from the windows in the flats opposite. Obscure glazing and limited openings are proposed which would limit significantly any overlooking of the adjacent outdoor space.
13. I therefore find that the proposed living space window would not be likely to result in harm to the living conditions of the occupiers of the flats opposite located at 121-123 Poplar High Street, with particular regard to privacy. This part of the proposal would comply with Policy D.DH8 of LP, the aims of which are set out above.

Other Matters

14. The appeal property itself is not a designated heritage asset, but it is located within the St Mathias Church, Poplar Conservation Area (CA). Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The significance of the CA is formed of the presence of St Mathias Church and the Poplar Recreation Ground and the townscape around it, including both residential and public buildings which are of a scale that are significantly different to the built form of Canary Wharf which provides the backdrop.
15. The proposal is for uPVC windows, which would match the windows in the existing host building. The windows would be sited on the side elevation which is significantly screened from public views of the CA. I therefore find that the proposal would not be harmful to the significance of the CA, and it would preserve the character and appearance of it.
16. I note that the appeal submission sought to resolve issues raised as part of a previous refusal by the Council for a similar proposal. Be that as it may, I must deal with the proposal before me on its individual merits. I have also been referred to other examples where the Council has granted planning permission. However, these appear to relate to schemes for replacement windows rather than new windows and they are some distance from the appeal site. I therefore consider that they are not directly comparable to the proposal before me.
17. Interested parties have raised concerns about the potential for increased noise and disturbance as a result of the proposal. However, the proposal does not intensify the existing residential use, and given the size of the appeal property, the use of the property would be constrained in any case.
18. I understand that residents of adjacent flats have experienced anti-social behaviour previously, through loud music, the dropping of litter and illegal activities including smoking substances that have caused distress. Whilst I sympathise with residents in this respect, I have little substantive evidence to

suggest that the proposal before me would result in such behaviour. I therefore do not consider that providing additional windows in this case would result in a significant increase in noise and disturbance or that it would be likely to contribute to anti-social behaviour.

19. A number of interested parties have raised the installation of a window in the western elevation at ground floor level without planning permission that has already caused concern. However, this does not relate to the appeal property, and I therefore cannot consider it as part of this appeal.

Conditions

20. The Council has provided a list of suggested conditions, should the appeal be allowed. I have considered the suggested conditions and amended as necessary in the interests of precision and clarity, as well as to comply with the Framework and the advice set out in the Planning Practice Guidance.
21. The standard time for commencement of development is necessary as well as a plans condition in the interests of certainty, only referring to the proposed window to serve the living space. In this case, given varying information is provided in the submitted details, in order to protect the living conditions of neighbours and the character and appearance of the area, a condition requiring window details, including obscuration and opening information is required prior to installation. The condition also requires the agreed window details to be retained thereafter.

Conclusion

22. For the reasons given above and having regard to the development plan as a whole and all matters raised, I conclude that the appeal should be dismissed insofar as it relates to the proposed enlarged kitchen window and new window in the bedroom, but allowed insofar as it relates to the proposed new window to serve the living space.

G Dring

INSPECTOR