



Appeal Decision

Site visit made on 4 November 2024

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/E5900/W/24/3349415

799-801 Commercial Road, London E14 7HG

- 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 Nanda & Sons Investments Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/23/00448.
 - Erection of a single storey building on the first floor rear roof to accommodate a one-bedroom flat.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a single storey building on the first floor rear roof to accommodate a one-bedroom flat at 799-801 Commercial Road, London E14 7HG, in accordance with the terms of the application, Ref PA/23/00448, and the plans submitted with it, subject to the conditions listed in the attached schedule:

Preliminary Matters

2. I have revised the site address and description of development provided in the application form to that given in the appeal form and the Council's decision notice as these more correctly identify the location of the property and the development proposed.
3. On 30 July 2024, the Government published a consultation on 'Proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system'. A Written Ministerial Statement (WMS) entitled 'Building the homes we need' was also published at the same time. The main parties were given the opportunity to comment on these publications, and I have considered their comments raised in my decision.
4. The appeal site is a Grade II listed building. The Council advises that a Listed Building Consent application was submitted for the same scheme and that this has been approved by them. It has therefore not been necessary for me to consider this matter any further.

Main Issues

5. The main issues are:
 - Whether the proposed development would provide acceptable living conditions for future occupiers, with regard to outlook; and
 - whether the proposal would affect the development potential of adjoining land.

Reasons

Living conditions

6. The host building is a three storey property within a terrace development with a retail unit at the ground floor and three flats above. The flats are accessed via a staircase from Commercial Road which leads to the rear roof on the first floor. At the rear of the site and to the eastern side are nearby buildings of multiple storeys of which many appear to be in residential use.
7. The development would comprise the erection of a single storey, one bedroom dwelling on the existing flat roof, and would have a small terraced area to the east. It would be accessed via the same staircase from Commercial Road as the other flats in the building. The Council advises in its officer report that the dwelling would comply with the required space standards and taking account of the relatively dense urban area with external obstructions, the dwelling would receive adequate daylight and sunlight.
8. An opaque glass privacy screen would be attached to the eastern boundary wall and short section of the northern wall to screen the proposed terrace and thereby protect the privacy of existing residential occupants nearby. As a result, the Council is concerned that there would be virtually no outlook from the only window in the bedroom and the main window in the living/kitchen. Even though these main windows to the habitable rooms would be relatively close to the eastern boundary they would be large and would both accommodate glazed doors to access the terrace. The terrace also appears large enough for a small amount of garden furniture and the glass privacy screen would more than likely allow some light to pass through. Therefore, recognising that the Council is satisfied that the proposed dwelling would receive adequate daylight and sunlight, that it would meet the required space standards, and having considered the position of the windows and the privacy screen, I see no substantive evidence why the proposed occupiers would experience an oppressive environment or feel unduly cramped.
9. Whilst the buildings fronting Commercial Road near the appeal site are higher than the proposed dwelling, to the east I saw that the buildings immediately alongside the proposed terrace are no higher than that terrace. Therefore, when I stood in the location of the proposed dwelling, I was aware of an open, spaciousness around it. Even with the proposed glass privacy screen in place, I anticipate that there would be no significantly detrimental overshadowing or enclosing effect arising from the immediately surrounding buildings.
10. I therefore conclude that the proposed development would provide acceptable living conditions for future occupiers, with regard to outlook. It would therefore comply with Policy D.DH8 of the Tower Hamlets Local Plan (2020) (THLP), Policy D6 of the London Local Plan (2021) (LLP), and the Framework which together seek to ensure that occupants enjoy a good level of amenity. Although LLP Policy D6 is not listed in the decision notice, it is mentioned in the Council's Officer Report and is relevant to this decision.

Development potential

11. The Council considers that if the privacy screen was removed to allow improved outlook and light for the proposed dwelling then it would significantly and detrimentally impact on the future development potential of the adjoining

site to the east. However, I have found that even with the privacy screen in place, the levels of light at the proposed dwelling and the outlook by future occupants would be acceptable. I therefore see no clear reason why the proposed development would have any potential unneighbourly impacts on the adjoining site to the east.

12. Even if I had considered that the proposal might impact on the development potential of neighbouring land, with or without the privacy screen, I see no clear reason why this relatively small development should have such a profound impact on adjoining land and buildings such that it would blight any development potential. Furthermore, there is little evidence to suggest that any such development is proposed immediately alongside.
13. I therefore conclude that the proposal would not affect the development potential of adjoining land. It would therefore comply with Policy D.DH8 which seeks to ensure that developments do not result in an increased sense of enclosure and loss of outlook, and the Framework which seeks to ensure that developments fit with the form and layout of their surroundings.

Conditions

14. I have attached conditions to accord with the advice in the Framework and Planning Practice Guidance. In addition to a time limit condition, a condition is required to ensure that the development is carried out in accordance with the approved drawings to provide certainty. I have also imposed conditions to provide cycle storage and to ensure that the development would be car free to promote sustainable development. Conditions are also required to control waste management, to obscure glaze and fix shut windows in the northern elevation and to install the obscure glazed privacy screen to ensure the privacy of the proposed and neighbouring occupants.
15. In the interests of safety and to preserve the amenity of the area a condition requiring the submission of a construction plan to the Council is necessary. This is a prior to commencement condition to control these matters from the outset of development. I have not included the Council's suggested Construction Activities condition as this would duplicate the Construction Management Plan condition. Conditions are also required to secure facing materials, joinery and rooflight details to take account of nearby heritage assets. I have also attached a condition restricting permitted development rights to the development hereby approved to avoid future alterations or additions which could cause harm to the surrounding historic context. I have attached a condition relating to construction works to safeguard the amenity of occupants in the neighbouring area and a condition to control the storage of refuse.

Conclusion

16. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be allowed.

G Bayliss

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: GAR-000; GAR-011 Rev A; GAR-012 Rev A; GAR-013 Rev A.
- 3) Prior to first occupation of the dwelling hereby approved, the cycle parking storage shown on drawing GAR- 011 Rev A shall be installed, ready for use and shall maintained as such for the lifetime of the development.
- 4) Prior to first occupation of the residential unit, the three windows within the northern elevation of the dwelling hereby approved shall be obscurely glazed and fixed shut and shall be maintained as such for the lifetime of the development.
- 5) Prior to the first occupation of the development, the obscure glazed privacy screen to the eastern elevation of the terrace hereby approved shall be installed in full, to a height of 1.8m above the terrace floor level, as shown on drawing GAR- 013 rev A and shall be maintained as such for the lifetime of the development.
- 6) Prior to the commencement of the development hereby approved including demolition, a Construction Environmental Management & Logistics Plan shall be submitted to and approved in writing by the Local Planning Authority.

The Plan shall include the details of:

- Telephone, email and postal address of the site manager and details of complaints procedures for members of the public;
- Measures to maintain the site in a tidy condition in terms of disposal/storage of waste and storage of construction plant and materials;
- Scheme for recycling/disposition of waste resulting from demolition and construction works;
- Ingress and egress to and from the site for vehicles;
- Safeguarding of buried services;
- Proposed numbers and timing of vehicle movements through the day and the proposed access routes, delivery scheduling, use of holding areas, logistics and consolidation centres;
- Parking of vehicles for site operatives and visitors;
- Travel Plan for construction workers;
- Construction lighting and timings of such, not to unduly impact on neighbouring amenity;
- Location and size of site offices, welfare and toilet facilities;
- Erection and maintenance of security hoardings including decorative displays and facilities for public viewing;
- Measures to ensure that pedestrian access past the site is safe and not obstructed;
- Measures to minimise risks to pedestrians and cyclists, including but not restricted to accreditation of the Fleet Operator Recognition Scheme (FORS) and use of banksmen for supervision of vehicular ingress and egress.

- Mitigation and monitoring measures for Spills and Pollution Prevention, Dust, Noise and Vibration and Air Quality;
- A feasibility survey, which shall be carried out to consider the potential for moving demolition and construction material from the site by waterborne freight.

The development shall not be carried out other than in accordance with the approved details.

- 7) No superstructure works shall take place until samples (to be provided on-site) and full particulars of all external facing materials to be used in the construction of the development have been submitted to and approved in writing by the Local Planning Authority.

The development shall not be carried out other than in accordance with the approved details and shall be maintained as such for the lifetime of the development.

- 8) The roof lights hereby approved shall be conservation style, flush fitting to the roof slope and shall be maintained as such for the lifetime of the development.
- 9) All windows and doors shall be set within reveals no less than 100mm deep and shall be maintained as such for the lifetime of the development.
- 10) Prior to first occupation of the residential unit, a scheme to secure its occupation as 'car-free' shall be implemented in accordance with details which are first submitted to and approved in writing by the local planning authority.

The scheme shall ensure that:

- a) All residential occupiers of the development (not being holders of a disabled person's badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation) including all such future occupiers, shall not apply for or hold an on-street parking permit to park a vehicle on the public highway at any time within the administrative district of the local planning authority.
- b) Any permit that is issued to or held by any occupant of the development shall immediately be surrendered to the local planning authority.
- c) The restrictions and requirements of the scheme shall apply to and be communicated to all future residential occupiers of the development including successors in title as well as any person occupying the premises as a tenant or licensee.
- 11) The communal residential refuse, recycling and compostables stores shown on approved drawing number GAR- 011 Rev A shall be provided prior to the occupation of the development and thereafter shall be made permanently available for the occupiers of the building.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting

that Order with or without modification), no development permitted by virtue of Classes A, B, C, D, E or F of Schedule 2 to the Order shall be undertaken.