



Appeal Decision

Site visit made on 28 January 2011

by Gary Deane BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 February 2011

Appeal Ref: APP/E5900/A/10/2130061
Regents Wharf, Wharf Place, London E2 9BD

- 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 Lord H Selman against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/09/02273, dated 22 October 2009, was refused by notice dated 26 April 2010.
 - The development proposed is the erection of 2 new dwellings.
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Decision

1. I dismiss the appeal.

Procedural matters

2. In September 2010, the Council adopted its Core Strategy (CS), which now forms part of the Development Plan. The Council has advised that CS Policy SO2 has replaced Policy CP25 of its Interim Planning Guidance (IPG), which is cited in the reasons for refusal. I have assessed the proposal on that basis.
3. The elevation plans do not accurately depict the existing Regents Wharf building nor do they show all the buildings adjacent to the proposed development. Moreover, the windows and doors of the existing Regents Wharf building are not shown on the block plans. I have taken into account these inaccuracies and omissions in assessing the proposal, which is based on all of the evidence before me, including my inspection of the site and its surroundings.
4. For convenient reference and to be consistent with the evidence, I refer to the proposed 1-bedroom dwelling as flat 1 and the 2-bedroom dwelling as flat 2.

Main issues

5. The main issues are the effect of the proposal on, firstly, the living conditions of the occupiers of Regents Wharf, with regard to communal amenity space and privacy; secondly, the living conditions of the future occupiers of flat 2 in terms of outlook and light; and thirdly, vehicle parking and highway safety.

Reasons

Living Conditions of the Occupiers of Regents Wharf

6. Regents Wharf is a substantial, 3-storey building in residential use that lies adjacent to Regents Canal, which is a Conservation Area. The proposal would erect 2 dwellings within the basement car park of Regents Wharf. On top of the basement, there is an outdoor amenity area (the upper terrace) the use of which is shared between the occupiers of Regents Wharf. The upper terrace includes landscaped planting and areas for sitting out with attractive views across the canal. It also provides pedestrian access to the main entrances of the flats of Regents Wharf. Adjacent to the canal side, is a smaller, lower level terrace (the lower terrace) that appears to be used for sitting out and barbecues. It is accessed from the upper terrace (above) and the basement car park (below) each by a short flight of steps. As such, the lower terrace also forms part of the route that appears to be a convenient way for occupiers of Regents Wharf to access their flats from the basement car park.
7. Flat 1 would be accessed off the lower terrace with its entrance door opening out directly onto this space. This proposed arrangement would create an awkward relationship with the use of the lower terrace since, to my mind, people would be reluctant to gather together, sit out or have barbecues, with the associated noise and disturbance that could result from these activities, so close to the entrance of a residential unit. This reluctance would effectively lead to the loss of some, if not all, of the lower terrace as a place for people to congregate and converse resulting in a significant reduction in its amenity value.
8. As circulation space, the use of the lower terrace would continue to be largely unaffected by the proposal. As people would be likely to pass by the proposed entrance of flat 1 rather than gather together close to it, I see no obvious conflict with this function. Equally, the use of the terrace as circulation space would not necessarily inhibit its use or diminish its value in amenity terms since passers by would be expected as part of the normal comings and goings of people. That relationship is quite different to the defensible space that users of the terrace would perceive immediately in front of the entrance to a dwelling. That the lower terrace is modest in size, lacks landscaping and is hard surfaced does not, in my opinion, diminish its value to existing occupiers as a pleasant place in which to sit outside and to gather with others. While local parks are within a reasonable walking distance of Regents Wharf, these would not be as convenient or necessarily an appropriate alternative to the use of the lower terrace.
9. Despite the inaccuracies and omissions of the plans, it was clear from my inspection of the site and its surroundings that there would be some loss of privacy to a ground floor flat of Regents Wharf through the use of the proposed external stairs to access flat 2. People descending the stairs would be able to see into the east-facing ground floor windows of the flat that would face these steps. However, the proposed roof enclosure over these stairs would restrict the view from this position towards these windows. Moreover, some windows of the ground floor flats front onto the upper terrace thereby potentially allowing its users to see into those rooms. In those circumstances, I consider

that the proposal would not cause an undue loss of privacy for the occupiers of the flats within Regents Wharf.

10. Notwithstanding my findings on this latter point, I conclude that the proposal would result in the loss of part of the existing communal amenity space for the occupiers of Regents Wharf, in conflict with UDP Policy OS7 and CS Policy SPO2. These policies aim to ensure that new housing is appropriate and that development does not result in the loss of private open space that has significant recreation or amenity value.

Living Conditions of the Future Occupiers of Flat 2

11. The smaller of the 2 bedrooms of flat 2 would be modest in size and have no external window. Little light would reach this room from the window within the adjacent corridor due to its position at an oblique angle to the bedroom door. As a result, the outlook from, and the light reaching to, this bedroom would be unacceptably poor causing this living space to feel claustrophobic and uninviting. I accept that future occupiers of flat 2 are unlikely to include families, given its modest size, and that the smaller bedroom may also be suited for use as a study and for occasional overnight guests. These matters do not diminish the harm that would be caused to the living conditions of future occupiers. I see no obvious reason to impose a condition to require the construction details of the corridor window as the harm that I have identified relates to the absence of an external window within the smaller bedroom.
12. I therefore conclude that flat 2 would not provide satisfactory living conditions for its future occupiers, in conflict with Policy DEV2 of the Tower Hamlets Unitary Development Plan (UDP) and IPG Policy DEV1. These policies seek to ensure that, amongst other things, development protects or improves the amenity of residential occupiers.

Vehicle Parking and Highway Safety

13. The appellant has advised that the proposed development would occupy about 11 vehicle parking spaces. These spaces are not currently used for vehicle parking nor, on the evidence before me, are they allocated specifically for the use of the Regents Wharf occupiers. In those circumstances, there is no certainty that the space lost to accommodate the proposed development would otherwise be used for vehicle parking. Even if that were not the case, and the site was used for parking, there is no detailed evidence before me to indicate that these spaces would be made available for use by the occupiers of Regents Wharf or other nearby buildings. Moreover, the Council acknowledges that the re-use of under-utilised car parking for residential development is broadly supported.
14. The appellant has confirmed that no additional off-street vehicle parking is proposed. As the site lies within a Controlled Parking Zone wherein parking restrictions apply, it would therefore be appropriate to impose a condition to prevent future occupiers of the proposed development from obtaining a resident's parking permit. This arrangement would ensure that the proposal would not add undue pressure on on-street parking spaces. Consequently, the matter of vehicle parking should not, in itself, significantly weigh against the appellant's case.

15. There is little detailed information on the likely effect of the proposal on the local highway network. However, I doubt that the additional vehicle movements from 2 modest-sized flats within a larger residential scheme with good public transport connections would be so great as to cause significant problems in terms of highway capacity or safety.
16. Overall, I conclude that the proposal would be acceptable in terms of vehicle parking and highway safety. It would comply with UDP Policy T16, which seeks to ensure that the operational requirements of the proposed use and the impact of traffic likely to be generated are acceptable. These findings do not outweigh the harm that I have identified with regard to the living conditions of existing and future residential occupiers.

Other matters

17. The proposal would remove the external ventilation grilles along the wall of the site that faces the canal. This change, coupled with the proposed new windows along this wall and the new external staircase to serve flat 2 would not be out of keeping with the broad appearance of buildings along this stretch of the canal. These elements of the proposal would have a minimal effect on the character and appearance of the Regents Canal Conservation Area, which would be preserved.
18. Interested parties raise several additional objections to the proposal. These principally include flood risk, energy efficiency, over-crowding, potential disturbance during construction, overdevelopment, lack of cycle storage, refuse disposal, fire safety, potential noise and disturbance, and the use and ventilation of the basement car park. These are all important matters and I have taken into account all the evidence before me. However, given my findings with regard to the living conditions of existing and future residential occupiers, these are not matters upon which my decision has turned.

Conclusion

19. I have had regard to all other matters raised including the representation in support of the proposal, the credentials of the site as a sustainable location for housing, and the positive contribution that the proposal would make to the stock of new housing. However, these matters are not sufficient to outweigh the harm that I have identified. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR