



Appeal Decisions

Site visit made on 13 October 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2020

Appeal A - Appeal Ref: APP/E5900/W/20/3252533

57 Roman Road, London E2 0QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr P Braiden (Magri Developments Ltd) against the London Borough of Tower Hamlets Council.
 - The application Ref PA/19/02701 is dated 6 December 2019.
 - The development proposed is 'Rebuild of existing first floor and construction of second floor to form 2no. 1bed flats retaining existing ground floor commercial.'
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Appeal B – Appeal Ref: APP/E5900/W/20/3252534

57 Roman Road, London E2 0QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr P Braiden (Magri Developments Ltd) against the London Borough of Tower Hamlets Council.
 - The application Ref PA/19/02630 is dated 29 November 2019.
 - The development proposed is 'Rebuild of existing first floor and construction of second and third floors to form 3 1bed flats retaining existing ground floor commercial.'
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Decision

1. Appeals A and B are dismissed, and planning permission refused.

Preliminary and Procedural Matters

2. Appeal A relates to the erection of a two storey development above the existing ground floor of the building to create two, one bed flats. Appeal B relates to the construction of three floors above the existing ground floor to create three, one bed flats.
3. Both development proposals were submitted in outline, with approval sought for appearance, layout and scale. Access and landscaping would be a matter reserved for future approval.
4. The Council did not validate the outline applications. Instead, in accordance with Article 5(2) of the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO), the Council gave notice to the applicant (now the appellant) that it required applications for full planning permission and that,

- in order to fully consider the impact of the proposals, additional information was required.
5. In the case of Appeal A, the requested Daylight/Sunlight Assessment (DL&SLA) was subsequently submitted and clarification provided that the Heritage Assessment was contained within the Design and Access Statement. However, the appellant took issue with the request to withdraw the outline application and submit a full planning application.
 6. In the case of Appeal B, initially, the Council simply requested a DL&SLA and information outlining how the proposal would affect transport infrastructure. The appellant duly submitted the DL&SLA and a draft Construction Traffic Management Plan. Subsequent to the original correspondence, the Council further advised that an application for full planning permission was required.
 7. In the case of both Appeal A and B, the appeal forms indicate the reason for the appeal is the failure of the Council to give notice of its decision within the appropriate period because of a dispute over provision of local list documentation. However, based on the evidence before me, and as outlined above, it would appear that the appellant provided the requested 'local list' documents and the validation dispute procedure, as set out in DMPO Article 12, was not invoked.
 8. Moreover, the Council's stance in accordance with DMPO Article 5(2) does not invalidate an application. Article 37(2)(d)(ii) of the DMPO states that an appeal may be lodged where the authority has served a notice on the applicant in accordance with Article 5(2) that it requires further information, where the applicant has not provided the information within six months of the date of service of the notice. In the case of both Appeal A and B, the applicant did not respond to the requirement set out in the Article 5(2) notices to submit full applications for planning permission. Instead, he has exercised his right of appeal against the Council's failure to take decisions on the applications.
 9. Therefore, for the reasons set out above, I shall deal with the appeals as validly made under Section 78(2) of the Town and Country Planning Act 1990 (as amended).
 10. Since the time the applications were submitted, the Council has adopted a new Local Plan for the area in July 2020, entitled the Tower Hamlets Local Plan 2031 Managing Growth and Sharing Benefits (THLP). Policies DM24, DM27 and SP10 of the Tower Hamlets Local Plan Managing Development Document 2013 are therefore no longer relevant to these appeals. The appellant was made aware of the change in local policy and given the opportunity to comment. Therefore, I am satisfied that neither party has been prejudiced as a result.
 11. A separate appeal has been submitted by the same appellant for the adjoining site at 59 to 61 Roman Road and is determined as a separate decision¹.
 12. I have identified the main issues in these appeals having considered the Council's Statements of Case, which set out the putative reasons for refusal in relation to both schemes.

¹ Appeal Reference APP/E5900/W/20/3253446

Main Issues

13. In both appeals, the main issues are:

- Whether the proposed development would preserve or enhance the character or appearance of the Globe Road Conservation Area and preserve the setting of the nearby listed building;
- Whether or not the proposals would provide acceptable living conditions for the occupiers with particular regard to the provision of private outdoor amenity space;
- The effect on living conditions of occupiers of neighbouring properties with particular regard to daylight and sunlight;
- The effect on the viability of the shopping centre; and
- Whether or not there would be adequate refuse provision.

Reasons

14. The appeal site forms part of the Globe Road Conservation Area (CA), characterised by late Victorian buildings and is located close to the Grade II listed building (LB) of the former Bethnal Green Fire Station, now the London Buddhist Centre. It is a prominent building on the corner with Globe Road and Roman Road, constructed of red brick and designed in an ornate Arts and Crafts Gothic style. Close by, the neighbouring narrow cobbled mews pedestrian street of Peary Place retains a strong connection with the traditional warehouses and industries associated with the area, and contributes to the significance of the CA.

Character and Appearance of Conservation Area and setting of listed building

15. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
16. Given the relationship with the LB opposite, I am required to assess the effect of the proposals on the listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.

Appeal A

17. The Council confirmed within their Statement of Case that they consider the proposal would not have an adverse effect on the historic environment. However, as is my statutory duty, I made my own assessment on the scheme before me.
18. The proposed varying heights would respect the relationship with the adjacent buildings as the roof line steps down from the attached 59 Roman Road, with a significant but appropriate height difference where it would turn the corner with Number 252 Globe Road. This would respect the existing environment of

contrasting building heights including some mansard roofs. The proposed fenestration patterns and the shop front design would also appear characteristic, and materials could be conditioned to ensure an acceptable finish.

19. As is currently experienced, the LB is by far the most striking of buildings within close range to the appeal site. Its presence is revealed given the nature of the surrounding road network and due to the low-level buildings on the opposite corner with Globe Road allowing views above the appeal site parapet roof.
20. As the proposal in Appeal A would be of similar scale to other adjacent Victorian buildings, the large scale of the listed building would not be compromised. It would result in partially obscuring views of the LB from the east, although the large scale of the listed building and decorative features would still be appreciated. The significance of the building would be retained as a consequence.
21. Overall, I conclude that the proposal would preserve the character and appearance of the CA and preserve the setting of the listed building. It would therefore not conflict with the London Plan 2016 Policies 7.4, 7.6 and 7.8 in their collective aims to respect local character and context and to conserve and enhance the significance of heritage assets. Furthermore, it would accord with the THLP Policies S.DH1 and S.DH3 in their design aims, and for development to preserve or enhance the historic environment, and Policy D.DH2 to manage views of borough designated landmarks. It would comply with the advice contained within the Globe Road Conservation Area Character Appraisal and Management Guidelines 2009 to preserve and enhance heritage assets.

Appeal B

22. This proposal for a four storey development on the same corner would be taller than the neighbouring buildings, save for the modern flatted development attached to the end of the Globe Road terrace which is purpose built and cannot be compared to the adjacent Victorian buildings. Nor can the other corner turning buildings brought to my attention by the appellant as they do not share the same relationship with adjoining buildings as that of the appeal site. The high-rise apartment block at 50 Roman Road cannot be realistically compared as it is a set piece development and is, furthermore, outside the CA boundaries.
23. Given the considerable mass and bulk proposed to this corner site, the proposal would dominate the low-level adjoining building of No 252 Globe Road. Despite the use of appropriate local yellow brick materials and fenestration pattern characteristic of the area, it would not harmonise with the scale of the neighbouring Victorian buildings. It would exceed their heights and would appear as an overbearing, incongruous feature within the street scene. It would not respond positively to the character of the area and therefore would not preserve or enhance the special heritage merit of the CA.
24. A development of the scale and height proposed would negatively impact upon the setting of the LB. It would substantially block views of it from the east direction which presently allows a distinct appreciation of the building. The height would jar with the other Victorian buildings appearing out of context in

its environment, and thus would detract from the LB's prominence and significance.

25. Bringing heritage considerations together, I conclude that the proposal in Appeal B would fail to preserve or enhance the character or appearance of the CA and would not preserve the setting of the LB. This would conflict with the London Plan 2016 Policies 7.4, 7.6 and 7.8 in their collective aims to respect local character and context, and to conserve and enhance the significance of heritage assets. Furthermore, it would not accord with THLP Policies S.DH1 and S.DH3 in their design aims and requirement for development to preserve or enhance the historic environment, and the aims of Policy D.DH2 to manage views of borough designated landmarks. It would not comply with the advice contained within the Globe Road Conservation Area Character Appraisal and Management Guidelines 2009 to preserve and enhance heritage assets. Finally, the proposal would not comply with the National Planning Policy Framework (Framework) in its objectives to conserve and enhance the historic environment.
26. In the words of the Framework, the harm to the designated heritage assets would be less than substantial. However, any harm requires clear and convincing justification. The provision of additional homes in the Borough is recognised as a benefit to the scheme although this would be limited. It could be said to make more effective use of previously developed land. However, the Framework is clear that the effective use of land should also safeguard and improve the environment, which I find the proposal before me would not in respect of the historic environment. To conclude, given the detail of the proposal, any public benefits delivered would be limited and would not amount to public benefits which convincingly outweigh the identified harm.
27. I do not consider the proposal relates to THLP Policy D.DH2 as this refers to delivering well connected spaces. No details of how the proposal conflicts with the Redchurch Street Conservation Area Character Appraisal and Management Guidelines 2009 were submitted by the Council. I therefore find no reason for the proposal to be in conflict with this guidance.

Living Conditions – outdoor space

28. None of the proposed flats in either Appeal A or B would have outdoor private amenity space. This is contrary to the THLP Policy D.DH8 that requires new development to provide acceptable amenity space. A 1-2 person dwelling is required to provide a minimum of 5sq.m. of private outdoor space in compliance with the London Plan 2016 in respect of space and accessibility standards.
29. Whilst the appellant has identified areas of open space within walking distance of the appeal site, this does not negate the need to comply with policy standards. Although it is suggested that a balcony may cause overlooking issues, I have no evidence to demonstrate that this has been fully explored. The precise details of another development with no outdoor private amenity space is not before me to enable an informed comparison of the two sites. Therefore, I apply limited weight to this example. Furthermore, the size of the internal space for the flats, at just above the required minimum standards, would not acceptably compensate for the lack of outdoor private space.

30. Based on the information before me, the proposals would therefore fail to meet policy requirements. Therefore, I conclude that harm would arise to the occupiers of both proposed developments as a consequence of unacceptable living conditions. The schemes would conflict with the aims of Policy 3.5 of the London Plan 2016 and Housing Supplementary Planning Guidance 2016 to secure quality and design for housing developments. Nor would the proposals meet the requirements of the THLP Policy D.DH8 to provide acceptable amenity levels.

Living Conditions - Daylight/sunlight levels

31. With regards to Appeal A, the DL&SLA Version 01 August 2019 confirms that the effects of the proposal on the adjacent dwellings of 256 Globe Road and 1a Peary place would lead to no adverse impacts on the living conditions of the occupiers. Based on the assessment, I find no reason to disagree with its findings.
32. The attached building of 59-61 Roman Road is larger in scale and height than the proposal and extends behind the appeal site. No assessment of the effect of this building on the appeal proposal has been carried out despite the wording within 6.3 of the DL&SLA.
33. At Appeal B, the DL&SLA does not assess the effect of the proposed four storeys on the surrounding area. Therefore, it is not possible to accurately measure the impact of the proposal on future and existing living conditions.
34. I have come to the conclusion that both proposals fail to demonstrate that harm would not arise to future occupiers of the proposal and existing occupiers. Thus, it has not been shown that there would be no conflict with the requirements of the THLP Policy D.DH8 in its aims for new development to ensure acceptable amenity levels are upheld.

Viability of A1 unit and servicing

35. In both cases, the A1 shop unit would be decreased in size in order to accommodate the ground floor refuse space, staircase and cycle storage for the development. The retail floor area would be further compromised as there would be no designated storage space to support the retail function. The retail floorspace could thus reasonably become further reduced in size.
36. Although the appellant states that the layout configuration has permitted development rights approval, it has not been explained to me how this would have a bearing on the proposals. Furthermore, there is no evidence provided to demonstrate that a smaller retail unit would protect the viability of the district centre.
37. With respect to servicing arrangements to the unit, I reason that it would be no different to the existing arrangement.
38. Bringing both matters together, I conclude that, whilst I find no conflict with servicing arrangements, I am not convinced that there is adequate justification to demonstrate that the vitality of the retail shopping area would be protected. On this basis it would conflict with the aims of THLP Policy D.TC2 to protect its retail function.

Refuse provision

39. With regards to the capacity of the refuse store, in both appeals, this is not demonstrated by the appellant to meet the requirements for the retail space and would therefore not accord with the requirements of THLP Policy D.MW3 to secure waste collection facilities in new development, as well as the corresponding Appendix 4.

Planning Balance and Conclusion

40. I have considered the schemes before me. Both have common themes and as I have found, have acceptable components. However, taking into account the harm that would arise due to the below standard living conditions, potential for harm to the viability of the district centre and inadequate refuse storage facilities, Appeal A must fail. Appeal B also follows the same negative effects, compounded by its unsympathetic design and harmful consequences to the CA and LB that far outweigh its advantages.
41. The site is located within an area that may well give rise to promoting sustainable travel but, whilst this weighs in favour of the proposals, in the final balance I apportion limited weight to this. It would not lead me to justify unacceptable development.
42. I therefore conclude that Appeals A and B are dismissed, and planning permission refused.

Alison Scott

INSPECTOR