
Appeal Decision

Site visit made on 2 March 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Appeal Ref: APP/E5900/W/20/3256901

East London Central Synagogue, 30 - 40 Nelson Street, London E1 2DE

- 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 Mr Andrew Cohen (Federation of Synagogues) against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/20/00165, dated 22 January 2020, was refused by notice dated 24 April 2020.
 - The development proposed is described as 'existing vacant site: proposed construction of a 5 storey development comprising 4 No residential units'.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 5 storey development comprising 4x residential units (2x 2 bed, 1x 1 bed, 1x 2 bed duplex) at East London Central Synagogue, 30 – 40 Nelson Street, London E1 2DE in accordance with the terms of the application, Ref PA/20/00165, dated 22 January 2020, subject to the conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Mr Andrew Cohen (Federation of Synagogues) against the Council of the London Borough of Tower Hamlets. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of proposed development shown on the Council's decision notice is more precise than that shown on the planning application form and I have therefore used this description in my decision above.
4. The present appeal scheme follows a previous allowed appeal¹ at the site for construction of a 4 storey building to provide 4 residential units. Whilst I have had regard to the previous appeal decision as a material consideration, I have determined the appeal scheme on its own merits.
5. The new London Plan 2021 was published on 2 March 2021. It replaces previous versions of the London Plan and can be given full weight.

¹ Appeal reference: APP/E5900/W/18/3197662

Main Issues

6. The main issues are the effect of the proposed development on (i) the character and appearance of the street scene and the setting of the adjacent non-designated heritage asset, and (ii) the living conditions of the occupiers of the first floor flat at No 42 Nelson Street, with particular regard to daylight and outlook.

Reasons

Character and appearance

7. The appeal site consists of an untidy piece of land located to the side of East London Central Synagogue. The Synagogue is the only purpose-built Synagogue in the Borough and a non-designated heritage asset for its architectural, historic and social significance. Nelson Street consists of buildings sited close to the road that range in height from 2 to 5 storeys, and there is a sense of enclosure to the public realm. The rear elevation of Shiraj Tower, a substantial slab-like modern building, is visible from Nelson Street through the appeal site. The overall composition of the area consists of architecturally diverse buildings that range in height and scale.
8. In comparison to the previously approved appeal scheme, the height of the proposed building would be increased from 4 to 5 storeys. The 3 storey glazed element adjoining the Synagogue would be at the same height as previously approved, set below the eaves of the Synagogue.
9. Whilst the proposal would be taller than the adjacent 2 storey building at Nos 42-52 Nelson Street and the 2 storey terrace opposite the site to the north, it would also be viewed in context of the large 5 storey building at 56-60 Nelson Street and the backdrop of the Shiraj Tower. It would also be similar in height to the building on the western side of the Synagogue. Consequently, having regard to the varied height and scale of the buildings in the vicinity of the appeal site, the proposal would integrate satisfactorily with the surrounding context.
10. Furthermore, the design of the proposal, including the use of the glazed walling; projecting element; contrasting materials; and curved feature, would provide vertical proportions that would break up the mass of the building and achieve an acceptable appearance. Whilst the proposed building would be taller than the adjacent Synagogue, the 3 storey glazed walling would provide an appropriate visual break, and the tallest section of the proposal would maintain sufficient separation to ensure that it would not appear dominant or overbearing in relation to the Synagogue. The proposal would therefore preserve the setting of the non-designated heritage asset.
11. I appreciate the Council's concerns that the boundary wall/fence indicated to the front of the ground floor flat would cause an inactive frontage. However, the appellant has shown a willingness to use an alternative boundary treatment such as railings, which would allow inter-visibility with the street. I am satisfied that this matter could be addressed through the imposition of a planning condition in a similar way to that used by the previous Inspector.
12. For the above reasons, I conclude that the proposed development would maintain the character and appearance of the street scene and preserve the setting of the adjacent non-designated heritage asset. The proposal would

therefore accord with Policies S.DH1 and D.DH2 of the Tower Hamlets Local Plan 2031: Managing Growth and Sharing the Benefits Adopted January 2020 (the Local Plan). These policies state, amongst other things, that development is required to meet the highest standards of design and be of an appropriate scale, height, mass, bulk and form in its site and context; and optimise active frontages towards public streets and spaces.

Living conditions

13. The neighbouring building at No 42 Nelson Street includes a first floor flat, which is located above a commercial use at ground floor. The dwelling has 2 first floor side windows that face the appeal site, with a separation of approximately 4.9 metres. As noted by the previous Inspector, these windows receive some daylight and provide a relatively open outlook for neighbours owing to the undeveloped condition of the appeal site. The information before me indicates that one of the windows serves a staircase/circulation area, and the other window serves a lounge. Given that the staircase window does not serve a habitable room, the significant loss of daylight and outlook that the proposal would cause to this window would not result in significant harm to the living conditions of the neighbouring occupiers.
14. The appellant has submitted a Daylight and Sunlight Study², which is based on the methodology set out in the Building Research Establishment guidance³ (BRE guidance). This shows that the proposal would cause a significant loss of daylight to the first floor side lounge window of the neighbouring property. Nevertheless, the lounge is also served by a large rear-facing window, and the proposal would have negligible impact on this window, as shown by the Vertical Sky Component calculation. Furthermore, the Daylight and Sunlight Study includes an assessment of the effect of the proposal on the daylight distribution in the lounge, and it includes details of the floor plans on which this calculation is based. The study shows that the reduction in daylight distribution to the lounge, as a result of the effect of the proposal on the side and rear lounge windows, would be modest and accord with the levels set out in the BRE guidance. Accordingly, the Daylight and Sunlight Study demonstrates that the lounge would receive sufficient levels of daylight.
15. Furthermore, whilst the proposal would cause a significant loss of outlook to the side lounge window, the rear window provides outlook above the existing single storey rear extension, and this would be largely unaffected by the proposal. Consequently, having regard to the above factors, a sufficient level of daylight and outlook would be maintained to the lounge at No 42.
16. For the above reasons, I conclude that the proposed development would not cause significant harm to the living conditions of the occupiers of the first floor flat at No 42 Nelson Street, with particular regard to daylight and outlook. The proposal would therefore accord with Policy D.DH8 of the Local Plan, which, amongst other things, states that development must ensure that existing habitable rooms have an acceptable outlook; and, do not result in an unacceptable material deterioration of the sunlight and daylight conditions of surrounding development. The Council also refers to Policy D.H3 of the Local Plan, however this policy is not directly relevant to matters of daylight and

² Prepared by Right of Light Consulting dated 16 January 2020

³ Building Research Establishment guide 'Site Layout Planning for Daylight and Sunlight: a guide to good practice, 2nd Edition by P J Littlefair 2011.

outlook. Nevertheless, this would not alter my findings on the second main issue.

Conditions

17. The Council has suggested 7 conditions which I have considered against the Framework and the advice in Planning Practice Guidance, amending where necessary in the interests of precision. I am satisfied that all of my conditions set out in the attached Schedule are necessary, relevant and reasonable to make the approved development acceptable.
18. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
19. A condition to require details of the proposed external materials of the development to be submitted to and approved by the Council is necessary to maintain the character and appearance of the area. It is also necessary to impose a condition to secure approval of the front boundary treatment to ensure that an active frontage would be provided.
20. Conditions to require details of the refuse and recycling storage provision to be submitted to the Council for approval are necessary to ensure that occupants would have appropriate access to these facilities. Furthermore, a condition relating to the provision of cycle storage is necessary in the interest of sustainable transport. A condition requiring the submission of a Construction Management Plan for approval is necessary in the interests of highway and pedestrian safety and neighbouring living conditions.
21. The appeal site is located in an accessible location close to a range of shops, facilities and passenger transport services. Cycle parking provision would also be available on the site for residents. Having regard to the accessible location of the site and the modest scale of the proposal, it would be unlikely to generate any significant car parking needs. Whilst I note the Council's suggested condition to restrict parking permit entitlement for occupiers of the proposed development, there is no substantive evidence before me to demonstrate that this is necessary.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed.

C Osgathorp

INSPECTOR

Schedule of conditions

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings:-

05/941/PLAN/101/A; 05/941/PLAN/102; 05/941/PLAN/114/B;
05/941/PLAN/115/B; 05/941/PLAN/116/A; 05/941/PLAN/117/A;
05/941/PLAN/118/A; 05/941/PLAN/119/A; 05/941/PLAN/120;
05/941/PLAN/121/A; 05/941/PLAN/122_C; 05/941/PLAN/123.A;
05/941/PLAN/124_A; 05/941/PLAN/127_A; and 05/941/PLAN/129.
- 3) Before any above ground development hereby permitted is commenced, samples and details of the materials to be used in the construction of the external surfaces of the building hereby approved, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Before any above ground development hereby permitted is commenced, details indicating the position, design, materials and type of boundary treatment to be erected to the north (front elevation) of the development shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) Prior to the occupation of the dwellings hereby approved, details of secure cycle storage for the development shall be submitted to and approved in writing by the local planning authority and the cycle storage shall be provided in accordance with the approved details. The cycle storage shall be retained at all times thereafter.
- 6) Prior to the occupation of the dwellings hereby approved, details of the provision of refuse and recycling storage facilities to serve the development shall be submitted to and approved in writing by the local planning authority and the refuse and recycling storage shall be provided in accordance with the approved details. The refuse and recycling storage shall be retained at all times thereafter.
- 7) No development shall take place, including any works of demolition, until a Construction Method Plan has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;
 - iii. storage of plant and materials used in constructing the development;
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v. measures to control the emission of dust and dirt during construction;

- vi. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- vii. delivery, demolition and construction working hours;
- viii. all non-road mobile machinery used in connection with the construction of the development meeting the minimum emission requirements set out in Mayor of London's Control of Dust and Emissions during Construction and Demolition, Supplementary, Planning Guidance 2014.

The approved Construction Method Plan shall be adhered to throughout the construction period for the development.