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## Appeal Decision

Site visit made on 15 March 2022

**by D Hartley BA (Hons) MTP MBA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 March 2022**

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**Appeal Ref: APP/E5900/W/21/3284499**  
**257 Whitechapel Road, London E1 1DB**

- 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 Adkins of Goodwin Associates Ltd against the decision of the Council of the London Borough of Tower Hamlets.
  - The application Ref PA/20/00975, dated 13 May 2020, was refused by notice dated 12 April 2021.
  - The development proposed is a three storey rear addition to provide one residential unit (2-bed 4 person) with glazed central winter garden and associated cycle and refuse store, together with refurbishment and upgrading of existing front building.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are (i) whether the proposal would preserve or enhance the character or appearance of the Whitechapel Market Conservation Area and its effect on the host property as a non-designated heritage asset; (ii) the effect of the development on the living conditions of the occupiers of No 255A Whitechapel Road in respect of outlook and future occupiers of the residential unit in respect of air quality and noise; (iii) the effect of the proposal on the local highway network in terms of delivery and servicing arrangements, and (iv) whether there would be acceptable cycle storage provision.

### Reasons

#### *Whitechapel Market Conservation Area and locally listed building*

3. The application seeks full planning permission for the construction of a three storey rear extension to provide one residential flat and including a glazed winter garden and associated cycle and refuse store. The appeal site is mid-terraced, locally listed and falls within the Whitechapel Market Conservation Area (CA). Nos 261-267 Whitechapel Road to the east are grade II listed buildings. There is a listed drinking fountain on the pedestrian footway in front of No 259 Whitechapel Road. The ground floor of the building was last used as a betting office and the appellant states that the upper floors of the building are in commercial office use.
4. The significance of this part of the CA is characterised by four to five storey high terraced buildings fronting Whitechapel Road and, in the main, with significantly lower scale of development to the rear of the properties. The latter

can be seen by users of the railway line to the north. Notwithstanding the general consistency to the scale of development to the rear of properties, the Whitechapel Market Conservation Area Appraisal and Management Plan 2021 makes reference to the poor condition and haphazard development to the rear of properties in the CA as whole. However, it identifies Nos 255, 257 and 259 Whitechapel Road as being '*notable for their humble scale which is a reminder of an earlier era*'. Whilst the style and form of buildings vary, there is a consistent, relatively small scale to most of the historic buildings within the area, this scale is a distinctive characteristic.

5. In the context of the above, the proposal would represent a high, bulky, dominant and out of proportion addition to the appeal building when seen from surrounding properties and the railway line, causing unacceptable harm to the design and historic significance of the locally listed building and to the character and appearance of the terrace and CA. The development would not be subservient in scale to the host property and in this regard would represent poor design. The appellant contends that the development would not be highly visible from public viewpoints. It would, however, be visible from the railway line and station and, in any event, the character of the CA derives from the buildings, layout and surrounding spaces as a whole, regardless of whether particular elements are open to public view. Its significance does not therefore rely only on the elements that can readily be seen.
6. The proposal would be constructed of brick with clay tile hung cladding and a glazed conservatory. Windows would be arched and the appellant states that this would reflect development at the nearby railway line. The extension would be contemporary in terms of its design and would not assimilate well into the immediate environment which is characterised as being a terrace of buildings of more traditional design and where the pallet of materials is simpler. In the case, I agree with the Council that the proposed fenestration details are not appropriate and that an opportunity has been missed to take more design cues from the host property and terrace of buildings.
7. Taking into account paragraphs 202 and 203 of the National Planning Policy Framework (the Framework), less than substantial harm would be caused to the CA. Harm would also be caused to the significance of the host property as a non-designated heritage asset. While the proposal would have the effect of boosting housing land supply, this would be a modest contribution from one flat. Reference is made to the existing single storey development as being surplus to requirements and that it is neglected in appearance. While the proposal would have the effect of addressing the appearance of this existing development, by way of demolition, this would not in itself justify allowing harmful and out of scale new development. In this case, the public benefits of the proposal would not outweigh the less than substantial harm to the significance of the CA, or to the harm to the locally listed building.
8. For the above reasons, I conclude that the proposal would not preserve or enhance the character and appearance of the CA and, on balance, the scale of harm to the non-designated heritage asset would be unacceptable. Therefore, the proposal would not accord with the design and conservation requirements of policies S.DH1 and S.DH3 of the Tower Hamlets Local Plan 2031 (LP) and chapters 12 and 16 of the Framework.

### *Living conditions – Outlook, air quality and noise*

9. The Council has provided evidence from the Valuation Office Agency to indicate that there is an active residential use on the first and second floors of 255A Chapel Whitechapel Road. The appellant had previously raised doubt about whether this property was in residential use. The appellant has not provided any evidence to refute the Valuation Office Agency information and I have therefore proceeded to determine this appeal on the basis that this neighbouring property is or could be in use for residential purposes. The appellant commented at final comments stage that the residential use *'appears to have an ancillary function to the ground floor shop rather than being a self-contained residential flat'*. Even if that were the case, I do not find that the occupiers of such a flat should be automatically subjected to living conditions that are worse than a self-contained flat.
10. There is a second floor window in the rear elevation of No 255A Whitechapel Road at a separation distance of less than 10 metres from the proposed development. Owing to the scale, massing and position of the development relative to this window, I find that the proposal would have a dominating and enclosing impact when viewed from the aforementioned window to the detriment of an acceptable level of outlook for existing and future occupiers of this neighbouring property. In this regard, I conclude that the proposal would conflict with the amenity requirements of policy D.DH8 of the LP. While the appellant has commented that any window in the elevation facing No 255A would be obscure glazed thereby addressing potential privacy issues, this would not overcome my concern relating to outlook.
11. In respect of noise from the nearby railway, the Council comment in their appeal statement that *'it is accepted that details of this could be conditioned were the proposals to be otherwise acceptable'*. I am also satisfied that the development would be capable of being acceptable for future occupants in respect of noise subject to the imposition of a condition. In this regard, I conclude that there would not be conflict with the noise requirements of policy D.ES9 of the LP.
12. In respect of air quality matters, policy D.ES2 of the LP states that an air quality impact assessment (AQIA) for new build developments in areas of substandard air quality should be submitted. It is not disputed that the appeal site is in an area of substandard air quality and hence the absence of an AQIA is in direct conflict with policy D.ES2 2(d) of the LP. Furthermore, in respect of the proposed balcony and courtyard private space, the policy requires applicants to demonstrate that they have considered the positioning and design of the space to reduce the exposure of future users to air pollution. In this case, the appellant has not provided sufficient explanation or justification in respect this matter. I therefore conclude that the proposal would conflict with the air quality requirements of policy D.ES2 of the LP.

### *Delivery and servicing arrangements*

13. In their appeal statement, the Council has commented *'with respect to reason for refusal 3, it is accepted that the additional information provided by the appellant at appeal stage, as set out by Watermans would overcome this reason for refusal'*.

14. I have no reason to disagree with the views expressed by the Council in respect of this matter and find that subject to conditional control, it would be possible to ensure that there was acceptable delivery and servicing arrangements for the host property, at both construction and operational phases, without harm being caused to highway safety or to the efficient use of the highway network. Consequently, I conclude that there would not be conflict with the delivery, servicing, highway safety and traffic management requirements of policy D.TR4 of the LP and chapter 9 of the Framework.

*Cycle storage provision*

15. The proposal includes the provision of a cycle store within the site. The Council raises concern that the doors would open out onto a path. In response to this, the appellant has commented that they would be content to have a roller shutter door. I am satisfied that this is a matter that could therefore be controlled by way of the imposition of a planning condition.
16. There is dispute between the main parties in terms of the required number of cycle storage spaces for this proposal. The plans show that two cycle storage spaces would be provided, but the Council contends that three should be provided. Appendix 3 of the LP states that for the proposed development there is a requirement for a minimum of two long stay bicycle parking spaces and that for short stay it should be provided at a minimum of '*1/40 units*'. In respect of the Council's minimum bicycle storage standards, I therefore find that there is conflict as there would be a shortfall of one space.
17. Policy T5 of the London Plan 2021 would not require a third bicycle parking space as it states that for short stay parking (i.e. for customers and visitors) 2 spaces should be provided where there are '*5 to 40 dwellings*' and '*thereafter 1 space per 40 dwellings*'. However, accordance with Policy T5 of the London Plan 2021 does not overcome the fact that the proposal would conflict with local minimum bicycle standards in the LP.
18. The appellant states that in accordance with policy T5 of the London Plan 2021, he would be prepared to make up for the shortfall in short stay or visitor bicycle parking in terms of the provision of additional bicycle storage/parking at the southern footway of A11 Whitechapel Road where there are existing Sheffield stands. However, the appellant has not provided me with a suitable mechanism to secure the provision and payment of an additional bicycle parking facility in this area.
19. Notwithstanding the above, the appellant states that '*it is noted that there is adequate space at ground floor for minor (i.e. non-structural) works within the site boundary to provide a cycle store that meets the necessary criteria*'. In this case, I am satisfied that there would be enough space on site to provide bicycle parking that would meet the minimum requirements of policy D.TR3 and appendix 3 of the LP. This is a matter that could be addressed through the imposition of a suitably worded planning condition.
20. I conclude that subject to a planning condition, the proposal would be capable of according with the bicycle storage and parking requirements of Policy D.TR3 and appendix 3 of the LP and policy T5 of the London Plan 2021.

## Other Matters

21. I accept that the proposal would make efficient use of a brownfield site. However, this is not a benefit that carries enough weight to alter or outweigh my overall conclusion below. Indeed, paragraph 119 of the Framework states that decisions should promote an effective use of land in meeting the need for homes and other uses, while also safeguarding and improving the environment. For the above reasons, the latter is not achieved in respect of the appeal proposal.
22. Taking into account the location of the proposed development and intervening existing development, I am satisfied that the proposal would not cause harm to the settings of nearby listed buildings or structures. However, this is a matter of neutral consequence in the planning balance.

## Overall Conclusion

23. Subject to the inclusion of planning conditions, the development would be acceptable in respect of delivery and servicing arrangements, bicycle parking provision and noise. However, the development would not preserve or enhance the character or appearance of the CA and harm would be caused to the significance of the host property which is a locally listed building. Paragraph 199 of the Framework states that '*great weight should be given to the asset's conservation*'. Furthermore, the evidence is that material harm would be caused to the living conditions of the occupiers of No 255A Whitechapel Road in respect of loss of outlook and insufficient information has been submitted in respect of air quality matters.
24. For the reasons given above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

*D Hartley*

INSPECTOR