



Appeal Decision

Site visit made on 24 May 2022

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 17th June 2022

Appeal Ref: APP/E5900/W/21/3288643

199A Whitechapel Road, London E1 1DE

- 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 Harun Quadi against the decision of London Borough of Tower Hamlets.
 - The application Ref PA/21/01442, dated 24 June 2021, was refused by notice dated 27 August 2021.
 - The development proposed is described as, 'rooftop seating'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Drawing 18/634/003 Revision B was submitted during the appeal. Since the changes do not significantly alter the scheme, I have determined the appeal on the basis of this drawing.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area including Whitechapel Market Conservation Area (WMCA); and
 - whether the proposal would provide safe and inclusive access to the rooftop area.

Reasons

Character and appearance

4. The site lies on Whitechapel Road on part of the pavement and is within the WMCA. Whitechapel Road is a wide street with pavements of generous widths that are at times occupied by market stalls. As such, the area has an open, spacious, yet vibrant community feel.
5. The significance of the WMCA lies, in part, in the evidence of historic buildings of a range of ages that reflect the way the area has evolved around Whitechapel Market which is a historic open space. The existing building is single storey, and its modest massing contributes positively to the open market character and significance of WMCA.
6. The proposal for rooftop seating would also include a glass balustrade around the perimeter of the roof. Although the balustrade would consist of glass, the

drawings also indicate a handrail and fixings which would be visible from ground level, visually adding to the massing of the building.

7. While the height of the balustrade would be modest and the materials in keeping with the host building, it is likely that the glass would have reflections rather than always appearing transparent. Therefore, this aspect of the scheme would also visually increase the massing of the building. Given the siting of the building on the pavement close to the road, the increased massing of the building that would result from the proposal would unacceptably diminish the open character of the WMCA.
8. In addition, the scheme would result in the presence of people and furniture on the roof which would be clearly apparent in short and long views along Whitechapel Road. In addition, the provision of greenery on the roof would further draw the eye to the roof level of the building and the associated activity. This would detract from the open community feel that is provided by the single storey market stalls and wide pavements along Whitechapel Road that speak to the area's history and significance.
9. Consequently, the proposed development would harm the character and appearance of the area and would fail to preserve the significance of the WMCA.
10. Paragraph 199 of the National Planning Policy Framework 2021 (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Given the limited scale of the proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
11. The Appellant considers that the proposal would provide customers with views from the upper floor and could act as a green gateway. Given the harm that the proposal would cause to the character and appearance of the area, this point would not outweigh the great weight that must be attributed to the conservation of the WMCA.
12. Given the above and in the absence of any defined public benefit that would outweigh the harm to the WMCA, I conclude that, on balance, the proposal would fail to preserve the character and appearance of the WMCA. This would fail to satisfy the requirements of the Act, paragraph 197 of the Framework and conflict with the development plan.
13. More specifically, the proposal would conflict with policies S.DH1 and S.DH3 of the Tower Hamlets Local Plan 2031 Adopted January 2020 (LP) which together seek development that, among other things, represent good urban design and preserve or enhance the significance of heritage assets.

Safe and inclusive access

14. I acknowledge the evidence regarding the height of the handrails. The drawings submitted as part of the appeal indicate handrails around the access hatch. However, as stated by the Council, this is not a planning matter.

15. The introduction to the relevant chapter of the development plan states, among other things, that the policies in this chapter seek to ensure that new development is well-designed, safe, accessible and inclusive. However, the Council has cited LP Policy S.DH1 in the decision notice, which does not specify safety as a requirement. Therefore, I am not satisfied that this Policy intends to control the safety of detailed aspects of development.
16. In terms of inclusivity, there is no substantial evidence before me to indicate that the proposal, or the wider building, meets this particular requirement.
17. Consequently, the proposed development would not provide inclusive access to the rooftop area. Therefore, it would conflict with the aims of LP Policy S.DH1 which seeks, among other things, new development that is inclusive.

Other Matters

18. I note the history of the site and that other legislation would control workplace procedures. However, since I have found that the proposal would not preserve the significance of the WMCA and would not provide inclusive access to the rooftop, these matters have not altered my overall decision.

Conclusion

19. For the reasons given above the proposed development would conflict with the development plan as a whole and in the absence of material considerations to indicate otherwise, the appeal is dismissed.

R Sabu

INSPECTOR