



Appeal Decision

Site visit made on 28 July 2022

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2022

Appeal Ref: APP/E5900/W/22/3292159

30-36 Turner Street, Whitechapel, London, E1 2AS

- 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 Tejinder Bassi, Bassi Corporation Limited against the decision of London Borough of Tower Hamlets.
 - The application Ref PA/21/01005, dated 28 April 2021, was refused by notice dated 22 September 2021.
 - The development proposed is Refurbishment and extension of the existing building, including an extension to rear of six storeys above the existing ground floor. Creation of five new residential dwellings (use class C3) (4 x two-bed flats, 1 x 3-bed flats), reconfiguration and extension of two of the existing three flats to increase to 3-bed flats. Reconfiguration of the existing commercial space (use class E) and Learning and non-residential institution space (use class F) associated servicing, refuse storage and bicycle storage. Improvements and alterations to shopfronts and signage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans have been received to the scheme to clarify cycle facilities within the proposed development. I have taken these into account as part of my assessment as given their limited detail, no parties would be adversely prejudiced by me accepting this evidence.
3. A Unilateral Undertaking was submitted with the appeal. The Council have been given the opportunity to comment on this agreement. They confirm this meets with their policy requirements to secure a financial contribution towards affordable housing. On this basis, this removes the fourth reason for refusal and therefore does not form part of my assessment.

Main Issues

4. The main issues with regards to the proposal are:
 - Whether or not the scheme would preserve or enhance the character or appearance of the Myrdle Street Conservation Area (CA);
 - Whether or not there is adequate cycle facilities on site to support the development; and
 - The impact of the proposal on the living conditions of neighbouring occupants with regards to outlook, light levels, overlooking and a loss of privacy.

Reasons

Character and appearance of CA

5. The appeal site is situated within the Myrdle Street Conservation Area characterised by high density development and a variety of styles and sizes of property ranging from terraced houses to mansion blocks dating from the late 18th century onwards.
6. With regards to this appeal, there are a number of distinctive buildings within this row with no particular homogeneity to this section of Turner Street. Nevertheless, they share common features and are seen in a context of a mix of architectures adding to the varied tapestry of its heritage legacy.
7. The appeal property appears as a former warehouse building with defined fenestration of a horizontal pattern and Art Deco influences with an interesting feature extension to the top floor. It retains much of its original character despite modern intervention. The building contributes positively to the character and appearance of the CA.
8. The development proposed would be, in the main, located behind and set back from the main building as though it were detached due to the pronounced separation between buildings that would be seen from the public domain. Nonetheless, it would share a very close relationship with the host building and viewed as an extension to it.
9. It would extend considerably higher than the immediate building heights consisting of three to five storeys. The proposal's design of part five, six and up to seven storeys in particular would tower above the host building and not be respectful of this, or the local heights. In addition, it would be seen from several vantage points from within the CA. The montages I have seen presented as evidence and taken from the front elevation of the Zoar Chapel only seek to emphasise its overbearing appearance when viewed from this part of the street scene. The changes proposed would have a discernible and adverse effect on the wider CA.
10. Even though its design cues have been influenced by the main building, it requires a sensitive design approach to development. Conversely, it would dominate, compete and detract from the historical integrity of the original building. As a large and incongruous addition, it would detrimentally harm its character and appearance.
11. I understand the redevelopment of the Whitechapel Estate that is proposed within the broader context of the appeal building to which this proposal would be viewed against that backdrop in time. Nevertheless, that development forms part of a single clearance and specific regeneration project and will entail complete placemaking to the local area. The proposal before me does not form part of this scheme. Whilst that approval would constitute a major physical redevelopment to create a new urban landscape through comprehensive master planning, I accept it would produce a change to the existing setting of the appeal building eventually. However, even so, it does not give rise to creating a large scale and inappropriate form of development that would not respect or protect the heritage value of the appeal site, or its contribution to the CA.

12. I am made aware by the appellant that the stepped design is intentional to compare to the stepped arrangement of the Whitechapel Estate scheme as well as to reduce its effect on the residential dwellings adjacent. The appellant points to discussions having occurred between parties to improve the end design and there is nothing before me to raise disagreement to the chosen palette of materials as an appropriate and complementary finish to the proposal. Nonetheless, these factors do not overcome the adverse effect that I have identified.
13. In addition, other small-scale extensions to buildings referred to by the appellant do not compare to the scheme before me. I draw no similarities. Neither does the larger-scale modern and set-piece developments within close range of the appeal site also brought to my attention by the appellant, have a bearing on the proposal before me.
14. As the appeal property sits within a conservation area, any development must be considered within the context of Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that I pay particular attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
15. Paragraph 199 of the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a conservation area, great weight should be given to the asset's conservation. That is still so, irrespective of whether the potential harm is 'less than substantial'. This harm would be 'less than substantial' and in accordance with paragraph 202 of the Framework, the public benefits must be balanced against any harm found.
16. Five new dwellings would add to the Borough's housing stock although this would have a very limited contribution as a public benefit. I note the sizable financial contribution it would bring to create local affordable housing. Again, this would not be sufficient a public benefit for me to find the proposal acceptable on the grounds of its damaging effect to the CA.
17. There is nothing to prevent the appellant from improving and refurbishing the existing commercial units and signage without the need for this development coming forward. Consequentially, as a public benefit I apportion only limited weight. The same applies to creating more bedrooms within existing flats, which could more likely be measured as a private benefit to the appellant. The education centre is to be relocated although there is nothing before me to suggest this cannot occur without the residential component. Overall, as public benefits, none of these outweigh the harm I have identified. Rather, I find in favour of safeguarding the character and appearance of the CA.
18. Therefore, to conclude on this main issue, the siting, scale and massing would not preserve or enhance the character or appearance of the Myrdle Street Conservation Area contrary to policy S.DH3 of the Local Plan: Tower Hamlets 2031 (2020) and policy HC1 of the London Plan 2021 in their combined aims to safeguard the historic environment. However, I find no direct relevance to Local Plan Policy S.DH1 as this relates to housing needs.

Cycle facilities

19. Approximately sixteen cycle spaces for use of occupants of the flats would be provided within the communal area at its main entrance. The acceptability of the number of these is not disputed by the parties and I have no reason to disagree.
20. By way of this proposal, two cycle spaces would be provided for the Class E use and two spaces for the F use located in two separate locations. I am aware that there is currently no cycle parking supporting the existing ground floor uses and I appreciate the Use Classes Order 2020 has been amended in more recent times and the flexibility to move between uses that this allows.
21. With regards to the Class F use, the Council agree that the Arabic School and Advice Centre requires one space per eight full time employees and one short term space. This accords with the parking standards I have been given sight of. The appellant confirms that up to eight full time staff are proposed to be employed at the site. Therefore, I find no reason to disagree with the appellant's approach to this number of cycle facilities based on the Council's parking standards.
22. The Council's concerns relate to the variety of uses that fall within Class E as they caution that the broad application of commercial, business and service use it allows would warrant one long stay and six short stay cycle facilities to be incorporated into the development.
23. The appellant suggests a condition could be imposed to prevent moving within certain use classes to one where a more intensive cycle facility would be required by way of the Council's cycle standards. If I were minded to allow the appeal, in light of this, would be a reasonable request in the interest of sustainable travel having considered the tests of paragraph 56 of the National Planning Policy Framework.
24. All things considered and based on the evidence before me, including the size of this unit, I am satisfied there is sufficient cycle parking available for this specific use further to the Council's cycle standards.
25. Therefore, to conclude on this main issue, the development is cycle policy compliant and would accord with the expectations of the London Cycle Design Standards (2015), policy T5 of the London Plan (2021) and policy D.TR3 of the Local Plan: Tower Hamlets 2031 (2020).

Living conditions

26. The Council's policy D.DH8 aims to safeguard living conditions of existing and future occupants from development. In terms of the existing flats, the principle residential aspect is to the front for all floors. The internal flat I viewed experienced high levels of light into the space, amplified by the large fenestration with buildings opposite some distance away. There is nothing before me to suggest that the other residential floors experience a different level of light or outlook into the flats.
27. Whilst the existing layout of the flats provides for the main aspect to the front, most floors experience a dual aspect from the combined and large kitchen/dining living quarters by way of the large fenestration to both ends of the room. No rear facing windows would be removed as part of the scheme

although the new development would sit behind them and the introduction of obscure glazing to some windows.

28. In terms of the dual aspect, the existing combined living space of floors one and two contains large windows. Taken together with the principle front aspect and the context within which the building currently sits and relationship with other buildings, I find the effect of the development on the dual aspect would not offend the living conditions of the occupants to a detrimental effect.
29. The light levels experienced from rear habitable room windows of all flats would be inevitably reduced as a result of the proposal. However, this would be in the morning time before the sun moves around. Overall, there would be a reduction in light experienced for a given period of time although it would be limited. I do not consider the occupants would be adversely affected by the reduction in light levels as a consequence of the proposal.
30. The principal outlook from the flats is over the street scene through the large windows and would remain as such. There would be a change to the outlook from the rear facing habitable room windows. However, there would not be a detrimental sense of enclosure to the occupants due to a combination of size of the room, principal outlook to the front and despite its closeness, the relationship with the proposed development.
31. Overlooking and a loss of privacy would be tempered by the use of obscure glazing to a number of windows but not required to all, together with the aid of perforated brick in specific areas. Therefore, privacy levels to occupants would be acceptably achieved.
32. Considering the effect of the proposal on the skyline to other properties concludes that the effect of no skyline (NSL) of 20 Varden Street is acknowledged by the council as a 'minor adverse impact' and in the overall scheme, I find this would not render the proposal unacceptable to the occupants of this property. From the evidence before me nor too would it detrimentally effect the occupants of 28 Turner Street or 43 Turner Street.
33. Turning to 35 Turner Street, the supplementary letter from the appellant's day light consultant of 5 October 2021, informs that the room in question with a resultant 30-39% reduction in NSL is a bedroom. Their own assessment table included with the original report confirms rooms not satisfying the BRE criteria.
34. To this end, a bedroom is a habitable space and despite an acceptable vertical sky component level, the occupants should not have their living conditions adversely compromised as a result of this development. Therefore, irrespective of the appellant's comments, based on the findings before me, I can only come to the view that the development would lead to a harmful effect on the occupiers.
35. To conclude on this main issue, the proposal would lead to no overlooking and a loss of privacy would not arise, or a detrimental sense of enclosure or outlook to the existing occupants of the flats. However, I have found harm arising to the living conditions of the occupants of Number 35 Turner Street. Therefore, on this basis only, it would be contrary to policy D.DH8 of the Tower Hamlets Local Plan (2020) and policy D3 of the London Plan 2021 in their combined aims to safeguard residential amenity.

Planning Balance and conclusion

36. In terms of harm to the CA as a designated heritage asset, this exceeds the acceptability of the proposal in terms of cycle facilities and the broad acceptability of its impact upon living conditions of most existing local residents.
37. I have weighed up the fact that the proposed scheme would bring some benefits to the existing occupants by way of external landscaped space and internal space, and improved accessibility within the building. These I apportion only moderate weight however.
38. There is nothing before me to disagree with the appellant when he confirms the size of the proposed units meet relevant internal standards with acceptable air quality impacts. However, these are neutral in the overall planning consideration and neither weigh for or against it. As too are other compliant areas such as Secured by Design initiatives, fire safety measures and its environmental credentials.
39. It would also bring an improved layout to the existing commercial ground floor units and their external appearance. There is nothing however before me to lead me to conclude that these works are entirely dependent on a housing scheme coming forward.
40. The contribution of five housing units to its wider strategic priority within the Borough is small. I note the financial contribution it would bring to create local affordable housing. However, even that does not convince me that this outweighs the detrimental effects I have identified.
41. Therefore, bringing all matters together and to conclude, the proposal would thus lead to conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. For the reasons given, I conclude that the appeal should not succeed.

Alison Scott

INSPECTOR

