



Appeal Decision

Site visit made on 21 January 2025

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 5 February 2025

Appeal Ref: APP/K5030/W/24/3354326

52 Bow Lane, City of London, EC4M 9DJ

- 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 planning permission.
 - The appeal is made by NARA Investments against the City of London Council.
 - The application Ref 24/00809/FULL, is dated 26 July 2024.
 - The development proposed is described as '*Change of use of offices to residential*'.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The Council failed to determine the application and issue a decision notice within the usual timeframe for an application of this type. The Appellant has exercised their right to appeal against the failure to give notice. Both main parties have provided statements in support of their respective cases. These have informed my consideration of the proposal and its planning merits.

Background and Main Issues

3. Whilst the Council did not issue a decision notice, it has provided four putative reasons for refusal as to why the proposal is considered unacceptable. Whilst this does not necessarily restrict the scope of my considerations, these four reasons appear to reflect the main areas of disagreement between the main parties and for which their evidence seeks to address.
4. Taking into account the evidence before me, I consider the main issues in this case to be:
 - i) Whether the loss of existing office accommodation is justified or not, and whether it would prejudice the primary business function of the city or not, and;
 - ii) The effect of the proposal on the living conditions of future occupiers in respect of noise and disturbance, and;
 - iii) Whether or not sufficient fire safety information has been submitted, and;
 - iv) Whether the proposal demonstrates adequate provision for future occupiers in terms of accessibility and inclusion.

Reasons

Policy Context

5. Core Strategic Policy CS1 of the *City of London Plan Local Plan January 2015* (COLLP) sets out that it seeks to protect existing office accommodation where there are strong economic reasons why the loss would be inappropriate.
6. Policy DM 1.1 of the COLLP sets out that the Council will refuse the loss of existing (B1) office accommodation to other uses where the building or its site are considered to be suitable for long-term viable office use and there are strong economic reasons why the loss would be inappropriate. The policy also sets out that losses would be inappropriate if prejudicing the primary business function of the city and/or removing existing stock for which there is a demand in the office market or long term viable need.
7. Policy DM 10.8 of the COLLP relates to access and inclusive design. It sets out to achieve an environment that meets the highest standards of accessibility and inclusive design in all developments (both new and refurbished).
8. Policy DM 21.1 of the COLLP sets out that that new housing should be located on suitable sites in or near identified residential areas and where development would not prejudice the primary business function of the City, be contrary to policy DM 1.1, or inhibit development potential or business activity in neighbouring commercial buildings, and result in poor residential amenity.
9. Policy CS21 of the COLLP relates to housing within the City. It indicates that to meet the City's need securing housing by refusing new housing where it would prejudice the primary business function of the City. The policy also refers to its aims to securing suitable, accessible and affordable housing.
10. Policy D5 of the *London Plan 2021* sets out that development proposal should achieve the highest standards of accessible and inclusive design. Including to be designed to take into account London's diverse population, and be designed to incorporate safe and dignified emergency evacuation for all building users. In all developments where lifts are installed, as a minimum at least one lift should be a suitably sized fire evacuation lift suitable to be used to evacuate people who require level access from the building. It also sets out that Design and Access Statements, submitted as part of development proposals, should include an inclusive design statement.
11. Policy D7 of the *London Plan 2021* indicates that to provide suitable housing and genuine choice for London's diverse population, including disabled people and older people residential development must ensure that where applicable, Part M of the Building Regulations, relating to wheelchair and/or accessible and adaptable dwellings are provided.
12. Policy D12 of the *London Plan 2021* relates to fire safety matters. It sets out that in the interests of fire safety and to ensure the safety of all building users, all development proposals must achieve the highest standards of fire safety. It then sets out criteria of measures which include that the proposals are designed to incorporate features which reduce the risk to life in the event of fire.
13. I have also been directed to the *City of London Office Use Supplementary Planning Document January 2015* (herein the SPD). On pages 11 and 12, it

provides a useful guide to applicants; a reckoner of sorts, on what viability and market evidence could be submitted with an application.

The context

14. Opposite the site is the Sir Christopher Wren designed St Mary-le-Bow Church, which is a Grade I listed building. Besides its historical and architectural features, one feature of which it is known for, is that the sound of its bells is said to 'define' being cockney. The appeal site is also located within in the Bow Lane Conservation Area, for which there is a duty to preserve or enhance its character or appearance. Neither main party has cited that the proposal would result in any harm to these designated heritage assets¹.
15. Given the proposal would not result in any external changes to the appeal building, and there is no suggestion that there is any link between the two buildings in terms of significance (beyond them being sited close to each other on opposite sides of the narrow Bow Lane) I find no reason to disagree with the main parties. In exercising my duties under s66(1) and 72(1) of the *Planning Listed Buildings and Conservation Areas Act 1990*, as amended, I find that the proposal, at the very least, would preserve the setting of this Grade I listed building and would preserve the character of the Bow Lane Conservation Area.
16. I saw from my site visit to the appeal site and wider area, that the site is located a short walk from shops, places of worship, public houses, urban open spaces, and public transport links; including the underground and bus routes. The appeal site element consists of four floors above ground level (which appears to be operated as a retail shop) accessed via a dedicated access door.

Loss of existing office accommodation

17. The Appellant has submitted what they label '*Report on marketing undertaken since 2019*', dated May 2024. This report was undertaken by an organisation familiar with the local market conditions within this part of the City and involve marketing the office premises on the site on a commercial leasehold basis. The report includes marketing particulars and indicates that the site was first marketed for 'several months pre-covid'.
18. However, there is a paucity of information contained within this report. There is no information on the Report's author, so it is difficult to understand the specific expertise that was relied upon in this particular marketing exercise. Indeed, the one page of detail on marketing is, itself, limited. Whilst it provides the background on the strategy adopted, it principally details putting details onto website(s) and databases. Moreover, there is no information on when or how these details have been kept up to date.
19. Although details of the letting particulars are provided at the end of the report; it is unclear as to how this was used in practice. For example; were the particulars drawn up in 2019, and then revised to take into account market conditions? If so, how regular was this updating? Furthermore, it is unclear as to whether the rent based upon £65 per square foot, which the report writer considered was 'competitive and in line with market trends at the time' has been reviewed or indeed what 'time' meant in this statement. Does the £65 per square foot refer to in 2019, or was this a revised figure taking into account market conditions since 2019, or is this the market figure as in 2024?

¹ Council's Appeal Statement, Paragraph 7.47 and 7.48

20. What is more, the half page Market Overview and Summary section generally provides assertions which are not supported by any detail. As an example, it asserts that there has been a *'gradual decline of transactions in the sub 1k sq ft market over the past five years'*, yet there is no source or data shown for this assertion. This could be, for example market data showing that this is a trend. Similarly, there is an assertion that *'current estimates (which are the highest for many months) still suggest that office occupancy levels are less than 30% of pre-covid levels'*. Again, there is minimal evidence before me which qualifies this assertion.
21. I note that the Appellant points to both macro- and micro-economic factors such as the Covid-19 pandemic and international events, which have caused changes in demand for office space; and certainly small office space such as that in this instance. Undoubtedly, there are a number of factors which influence the market, such as home working. However, I am unconvinced that the submitted evidence from the Appellant demonstrates that appeal building should no longer be considered suitable for long-term viable office use.
22. The fact remains that the appeal site lies within a central location, just a few minutes' walk from St Pauls Cathedral and the Bank of England to the west and east respectively. It is not within an area that is identified as a 'residential area' within the Council's COLLP DM21.1, which seeks to direct residential development to identified areas where an acceptable level of residential amenity can be achieved and to avoid inhibiting nearby businesses. It is unclear as to why small office based companies and organisations would not find the office space an attractive proposition given its central location and the ability to rent one part or floor of the overall site on a 12-month contract. However, the paucity of information before me in respect of the marketing and viability assessment of the site do not provide justification of what would amount to the loss of office accommodation in the City of London. This loss would undermine the primary business function of the City.
23. Accordingly, I find that the loss of existing office accommodation is not justified on the basis of the evidence before me. As such, the proposal would conflict with Policies CS1 and DM1.1 of the COLLP, as supported by the SPD, which seek the aforesaid aims, including protecting existing office accommodation where there are strong economic reasons for doing so and the building or its site are considered to be suitable for long-term viable office use.
24. I note the Appellant points me to other examples within their Statement of Case of where the Council have granted planning permission for similar schemes. However, not only do these relate to other areas within the City, but they also relate to other development or use types. For example; an apart-hotel as one and service apartments as another. Furthermore, it is clear that the decision-maker in some of those cases had different information before them. Some of this included considerably more detailed analysis and background on the viable and marketing information for those buildings/sites.
25. As an example, the Marketing Report dated November 2023 Rev A in Appendix G of the Appellant's Statement of Case, relating to an Apart-Hotel application, contains significantly more detail on the market within the City. This includes 'take-up rates', vacancy rates and take up by sector (up to 2019). That report also includes a competing building schedule (from October 2019) which provides the decision-maker an understanding of the market at that time

and some insight into it. Such detailed locational information is lacking from the appeal scheme here. As such, I do not find that these examples provide justification for the scheme in this case.

Living Conditions

26. The Council has raised concerns as to whether the proposal would be able to adequately mitigate factors, such as noise and disturbance for occupiers due to the absence of a noise survey. It is concerned that were these potential impacts not suitably mitigated, they may inhibit local business. I saw during my site visit that there were a number of public houses and/or bars nearby and also retail shops and food outlets. The potential risks is that future occupiers may complain about noise from nearby public houses, retail and food outlets, and even from the famous bells of the church opposite.
27. However, it is clear from the submissions of the Council's own Environmental Health Officers that planning conditions could be imposed to ensure satisfactory living conditions for future occupiers. In my view, not only would this contribute to ensuring better living conditions for future occupiers but it would also reduce the risk of nearby businesses having their operations inhibited by complaints from occupiers of the development arising from noise and disturbance issues.
28. Whilst I acknowledge the Council's position in terms of seeking to focus new residential development towards identified areas so as to minimise conflict between established business and residents, in this case there are ways in which mitigation from such factors could be reasonably secured by condition. In this respect, I do not find that the occupation of the appeal building by residents rather than an office use would result in the undermining of the primary business function of the City in relation to living conditions and noise and disturbance, as suggested by the Council.
29. Accordingly, I find that the proposal would not have an adverse effect on the living conditions of future occupiers with respect of noise and disturbance. As such the proposal would accord with Policies CS21 and DM21.1 of the COLLP and Policy D13 of the *London Plan 2021* insofar as they apply to ensuring that residential developments do not inhibit business activity in neighbouring commercial buildings.

Fire safety information

30. The Council have set out in their Statement² the requirements set out in adopted planning policies to achieve the highest standards of fire safety. This includes that developments ensure that certain fire safety information is submitted/addressed within all developments.
31. Whilst the Appellant has addressed a number of matters within their Final Comments, no further information relating to fire safety has been submitted, nor has any justification for its absence been given. In the absence of this information, I cannot be certain that fire services would be able to gain access to the site or hydrants in the event of a fire. Nor is there any information as to what provisions there are for residents in the event of a fire; including what measures would be in place for any disabled, elderly, or mobility impaired residents to evacuate the building safely.

² See section (iv) Paragraphs 7.38 to 7.44

32. Whilst noting the scale of the proposal means that planning policy does not require a Fire Statement to be submitted, this does not negate the need to provide information as set out in the London Plan Policies. Information which has not been submitted at the application or appeal stages.
33. In such circumstances, I cannot be certain that the proposal incorporates appropriate features which reduce the risk to life and the risk of serious injury in the event of a fire. Furthermore, I cannot be assured that the proposal provides suitable and convenient means of escape for all building users, or that such measures would be designed to ensure safe and dignified emergency evacuation for all building users. This includes whether or not the single lift provision within the proposal, which whilst existing, would be provided for the use of the proposed residential occupiers, would be suitably sized fire evacuation lift; suitable to be used to evacuate people who require level access from the building. Moreover, if the lift was not able to provide such provision, it is unclear from the evidence before me as to what measures would or could be used to mitigate or address this absence from a five storey building which would have four levels of residential accommodation.
34. Accordingly, I find that sufficient fire safety information has not been submitted in this case. In the absence of any such information, the proposal would conflict with Policies D12 and D5 of the *London Plan 2021* and Policy DM10.8 of the COLLP, which seek the aforesaid aims.

Accessibility

35. With regard to accessibility, there is little mention in the eight bullet points of the Design and Access Statement regarding accessibility for future occupiers and their visitors. Whilst there is mention that access will be via the existing front door and there is a lift providing step free access to each floor, little detail has been submitted that demonstrates that the proposal achieves the highest standards of accessible and inclusive design. There is also minimal consideration of this matter within the Appellant's *Planning & Heritage Statement* dated July 2024.
36. There are no details of how those with limited mobility would access the building with the short step from the pavement into the ground floor lobby area. Nor is there any indication of whether the lift; which from the plans appears to serve the four floors, the ground floor and the lower ground floor basement (which appears to be shown to be accessible to occupiers of the ground floor shop from their storage area), would be suitable for those requiring a wheelchair or other walking aids, or any occupier or visitor with a pushchair for example, in terms of its size and access into it. It is also unclear as to whether the lift would provide space for the transportation of bicycles to the first and second floor cycle stores.
37. In both cases, this means that occupiers unable to fit inside the lift – for example because they use a large motorised wheelchair – would have to instead navigate a number of stairs. Similarly, given the absence of external storage space, occupiers with bicycles would have to carry them up at least one if not two flights of stairs in order to store them in the cycle racks. I note that the scheme does have a number of merits – for example the dual front and rear windows and the generally spacious layout for a one bedroom flat. However, there is an absence of any detailed explanation as to how

accessibility and inclusion of all occupiers has been taken into account in the design and layout of the proposal.

38. Accordingly, I find that the proposal fails to demonstrate adequate provision for future occupiers in terms of accessibility and inclusion. As such, the proposal would conflict with Policies D5 and D7 of the *London Plan 2021*, and Policy DM10.8 of the COLLP which seek the aforementioned aims.

Conclusion

39. Whilst I have found that the proposal would not have an adverse effect on the living conditions of future occupiers in respect of the impact of neighbouring businesses, there remain a number of issues where there are clear conflicts with adopted development plan policies. Indeed, I find that the proposal would not accord with the adopted development plan for the area when considered as a whole, and other material considerations in favour of the proposal do not indicate a decision otherwise than in accordance with it.
40. For the reasons given above, I conclude that the appeal should be dismissed and planning permission refused.

C Parker

INSPECTOR