



Appeal Decision

Inquiry held on 21 January 2025

Accompanied site visit made on 29 January 2025

Unaccompanied visits made before and during the Inquiry

by David Nicholson RIBA IHBC

an Inspector appointed by the Secretary of State

Decision date: 12th March 2025

Appeal Ref: APP/M9584/W/24/3350592

302-312 High Street, Stratford, London E15 1AJ

- The appeal is made under section 78 of the Town and Country Planning (T&CP) Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Dominus Stratford Limited against the decision of the London Legacy Development Corporation (LLDC).
 - The application Ref. is 23/00456/FUL.
 - The development proposed is: Demolition of existing buildings and redevelopment of the site to provide a part 12, part 34 storey building (plus 1 basement level and roof plant) for a mixed-use development comprising 700 student accommodation rooms (Sui Generis), 801sqm workspace (Class E), a new public house consisting of 177sqm (Sui Generis) with hard and soft landscaping, public realm improvements including enhancements to the Channelsea River and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made to, and refused by, the LLDC. This ceased to operate as a local planning authority on 30 November 2024. The statutory responsibility for this appeal then fell to the London Borough of Newham (LBN/the Council).
 3. Prior to, and during, the Inquiry I exchanged notes with the Appellant regarding fire safety. Following a number of clarifications, and some redesign, I am satisfied that the Fire Statement was prepared by a suitably qualified person, that the concerns of the HSE could be accommodated in the next stage (Gateway 2) of the regulatory framework under the Building Safety Act 2022, and that the design could comply with this without further alteration.
 4. The National Planning Policy Framework (NPPF) was updated in December 2024. The parties amended their evidence and I have reached my Decision based on the latest version. There was no suggestion that the Environmental Statement (ES) was less than adequate. An Agreement, with 'blue pencil' clauses (giving me discretion), was submitted under section 106 of the T&CP Act (s106). It was common ground that many of the obligations would amount to benefits of the scheme, and I deal with these below.
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Main Issues

5. The main issues are the effects of the proposals on:
- i. the character and appearance of the area with particular regard to the height, scale, massing and design;
 - ii. the contribution that setting makes to the significance of the St John's Conservation Area (CA), and of non-designated heritage assets (NDHAs);
 - iii. public realm;
 - iv. privacy; and
 - v. Blue Badge parking provision.

Reasons

Character and appearance

6. Stratford High Street is part of a major road out of London. It runs roughly parallel with part of the main train line through Stratford station. Following the 2012 Olympic Games, this station is now part of a major interchange. The LLDC defined the Stratford Metropolitan Centre as the area incorporating the railway, underground and Docklands Light Railway (DLR) stations, a large bus station, and both the old Stratford and the more recent Westfield Stratford shopping centres. Further east lies the St John's CA.
7. The appeal site fronts onto the High Street and adjoins the Metropolitan Centre, the Edge apartments, the Carpenter's Estate and Lett Road, leading into the Estate. It backs onto the Channelsea, once a river, but now accommodating some trees. It has a Public Transport Accessibility Level (PTAL) rating of 6b (excellent). The site is currently occupied by vacant buildings including a public house and has an extant planning permission to demolish the buildings on it and redevelop the site for a 25-storey building for student and other accommodation.

BACKGROUND

8. The LLDC Local Plan divides the area into separate Sub Areas. These include Sub-Area 3: Central Stratford and Southern Queen Elizabeth Olympic Park. Within this, the site falls into the Stratford High Street policy area but just outside the border with the Metropolitan Centre. It is also part of site allocation SA3.4: Greater Carpenter's District.
9. The LLDC Characterisation Study 2019 supported the review of the Local Plan. It breaks down the Sub-Areas into Character Areas, describes their character at that time and provides context to policies. Within Sub-Area 3, the Study distinguishes between the Stratford Station character area, around one of London's major transport hubs, and the Stratford High Street, which contains some of the few remaining historic buildings. Although not policy, I find that its analysis is helpful in establishing the context for the site.

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10. The Metropolitan Centre, including the Stratford Station character area, now includes a cluster of tall and very tall buildings, with more permitted. A major regeneration is planned for the Carpenter's Estate, including buildings up to, at the highest, 30 storeys next to the new station entrance. The High Street now has tall buildings interspersed with lower developments along the north side, which includes the appeal site. Heights are mostly around 8-12 storeys but with taller buildings, including the 43-storey Halo tower at the west end of the High Street, by the River Lea and the Greenway to the Olympic park. At the other end, across the railway line from the site, will be the 36-storey Jubilee House and the site for a probable tall development at Bridge House.
 11. Eleanor Rosa House (ERH) stands across Lett Road from the appeal site. It was granted permission in 2015 and has been built and occupied. At its highest, it rises to 32 storeys, 97m above ordnance datum (AOD), higher than the other tallest towers along the High Street between the Halo and the railway bridge. The design of ERH is such that its mass is broken down into different wings as it approaches its apex, and slightly away from the High Street behind a low podium in front.

PROPOSALS

12. The proposed redevelopment would comprise a 34 storey tower, reaching to 114m AOD, with a 12-storey element (in itself a tall building) adjacent to the railway line, and a replacement public house, part of which would be within a two-storey podium to one side. Public open space would occupy the area between the pub and Lett Road. There would be no set back between the tower and the back of the pavement. Above 12 storeys, the tower would have a consistent floor plan up to the top, that is to say that it would be as large at the top as at its springing point. It would be clad in red panels, although the colour could be controlled by a condition.
13. The Quality Review Panel (QRP) was invited to review the proposals in accordance with London Plan Policy D4. It considered the scheme and gave a detailed response. Its comments focused on the proposed height, but also made reference to other matters. It expressed detailed opinions on why it thought that the tower was too tall, including that the urban hierarchy established by LLDC intends for building heights to gently ascend towards the town centre; that while ERH is very tall, its shoulder height reads more prominently than its apex because the tallest element is slender; and that in comparison, the heavier massing of the proposals would create a sudden jump in height. The panel supported the elegance of the vertical form in some views, but not in others, and suggested a reduction in height rather than a change in massing. It would have welcomed the opportunity to review the scheme again to follow up on the issues highlighted in its report. This offer was not taken up. The GLA had no objection to the proposals, but may not have seen the site.
14. The Appellant queried the independence of the QRP. I acknowledge that review panels are likely to have their own subjective opinions. Nevertheless, it produced carefully articulated reasons for why the tower was too tall as well as making other suggestions. While I accept that it should not always be essential to follow a review panel, the Appellant could have engaged with it more fully. I found its analysis useful, but have reached my own conclusions.

IMPACT ON APPEARANCE

15. Looking from the Carpenter's Estate, I saw that the full width of the proposed tower would be apparent behind the Edge apartments. However, due to the relative positions and perspective, I consider that the tower would seem only a little more prominent than ERH, and so would not stand out unduly. From either side of Stratford railway station, the proposals would be seen against the background of a busy transport interchange and a ring of towers. In this context, I found that there would be little harm. From the end of the underground platform, the tower would appear to be quite abrupt and much more prominent from the footbridge. However, this is in a highly urbanised context, with very tall towers which have been recently built, are under construction or permitted either side of Great Eastern Road.
16. From along the Broadway within the CA, the scheme would stand just beyond the end of its boundary, after a line of towers on the north side, within the Metropolitan Centre. Here it would appear primarily as a continuation of these towers, with more permitted. From the south side of the Broadway, however, the focus of the street is quite different. Here, the older buildings take centre stage (see below). While ERH does draw the eye slightly, the manner in which its forms are broken down has the effect of softening the impact of its height and resulting in a degree of elegance to its design. Consequently, it does not jar excessively with the varied building forms along the south side of the Broadway.
17. The proposals, by contrast, would obscure ERH in these views. From in front of the church, instead of seeing a receding line of tall buildings along the north side of the High Street, the eye would jump to that of the apparently much taller, brighter and more forcefully expressed form of the proposed tower. By the end of the Broadway, the combined height, forward position and lack of tapering of the tower would dominate the outlook.
18. From Burford Road, across the High Street from the site, the full width of the tower would be apparent where it would present a monolithic slab at the end of the road, albeit on a road that is far less used than the Broadway or the High Street. The view from due south is one the few in which the existing towers within the Metropolitan Centre are prominent. From here there would be a similar, if slightly less pronounced effect to that from Burford Road.
19. Turning to the High Street, from the south-west of the appeal site, the tower would stand at the edge of the footway on the same building line as the front of the podium to ERH. However, from street level the broken down forms of ERH result in a relatively elegant and unobtrusive solution which belies its height. Furthermore, whereas ERH steps back as it rises, first at podium level and again higher up, the proposed tower would rise continuously from the back of the pavement and to a much greater height. I accept that new regulations effectively requiring two staircases make tapering or stepping back towards the top more difficult. Nevertheless, the lack of change in floor plan would accentuate its massing and make it appear more monolithic than ERH.
20. Taken as a whole, and focussing on the potential impact on the High Street in particular, I find that the height of the proposed tower, emphasised in many views by its continuous form and forward position, would appear as an

unwelcome jolt in the townscape. Moreover, from most directions the very tall buildings within the Metropolitan Centre do not appear, so that they do not form part of the relevant context to the streetscape. This would make the proposed tower particularly prominent and dominant, and so cause considerable harm to the appearance of the area.

IMPACT ON CHARACTER

21. The Council's assessment followed the Characterisation Study which used an approved methodology. The Appellant's combined HTVIA did not follow this Study but identified its own Townscape Character Areas. Of these, its Area 1 covers both the High Street and an area east of the railway line. In evidence, the architect advised that he saw the appeal site, and the adjacent ERH, as a part of the Metropolitan Centre. For a previous scheme on the appeal site, the Appellant's planning team felt that development should step down from ERH, that is towards the CA. The same team took the opposite view for the current proposals, undermining the credibility of its planning witness.
22. From my assessment on the ground, I have found that there are distinct differences in character around the appeal site. While no division is perfect, I consider that these are well described by the Character Areas which have informed adopted policy. In particular, following the spatial hierarchy in the Local Plan has allowed the LLDC to successfully focus its tallest buildings within the Town Centre boundaries. These are followed by lower, but still tall, buildings on its periphery such as that for the proposed tower for the Carpenter's Estate, opposite the station entrance. This has created a coherent and legible streetscene.
23. The proposals would fail to follow this hierarchy, but interpose one of the tallest towers outside the boundary, upsetting the existing and emerging character on both sides. The effect would be to spread, and dilute, the influence of the Metropolitan Centre into that of the High Street. Indeed, it is worth noting that it would rise to 114m AOD, compared with 97m AOD for ERH. Taking an average storey height as around 3-3.25m, the 17m difference equates to over 5 storeys between the top of ERH and that of the proposed tower. Moreover, the planning considerations for ERH included additional benefits, and its appearance was supported in the officer report and by the QRP, such that the height of ERH should not necessarily form a starting point.
24. I note that Site Allocation SA3.4 puts the site within an area for mixed-use redevelopment where tall buildings should be directed towards the town centre boundary. The appeal site adjoins this, but so does the proposed tower adjoining the station in the Carpenter's Estate which would only be 30 storeys high. This does not alter my finding that the excessive height of the scheme would cause substantial harm to the character of the area.
25. The architect set out how the scale of the tower, that is the relationship between its height and those of surrounding buildings, had been arrived at, using this to justify 35 storeys. It was explained that, at greater height, the form would be clearly disproportionate. While this analysis is useful, from my site visits I consider that even at 35 storeys the proposed tower would appear substantially taller than would be appropriate for its context. I have noted the architect's comments on the slenderness ratio, that is the proportion between

the tower and the shoulder block, being more pleasing at a 1:3 ratio, but since both heights are design choices, this adds nothing.

OTHER DESIGN CONSIDERATIONS

26. Although external finishes could be subject to a condition, the predominantly red colour is a fundamental part of the design. This was criticised as being at odds with the prevailing, subdued, greys of the extant towers. NPPF§135d) promotes developments which would *establish or maintain a strong sense of place*. To my mind, this encourages approaches that either aim to harmonise with the existing street pattern or to create something new and vibrant, but aims to avoid a halfway house. Most of the High Street towers have chosen external materials of muted greys and glazing, which fit into the prevailing pattern, whereas the appeal scheme has chosen to be more strident. In theory, I find that this is a perfectly valid approach in the appropriate place. Here, however, unlike say the Halo tower, the site is not at such a major junction that it would be appropriate to establish a new sense of place. Nor is the site context particularly degraded so as to justify such a bold new approach.
27. I have noted the Floor Area Ratio (FAR) would be much higher than for comparable developments, but I consider that a key ability of an architect is to optimise a site's potential and that it is the extent of harm, if any, that matters. On the positive side, some elements of the design exhibit significant skill and aptitude, as one would expect from an award winning practice with a track record of successful projects. However, I find that both the concept and details are derived more from the technical requirements of the brief, and the experience of other projects, than being informed by the wider constraints of the site.
28. For all these reasons, while I find the design approach acceptable in principle, I do not find that it justifies the prominence that would come from the proposed combination of colour, form and particularly height, in this location.

CONCLUSIONS ON HARM

29. For the above reasons, I find that the height, emphasised by the continuous plan form and forward position of the proposed tower, would be markedly and obtrusively out-of-kilter with, and so harm, the character and appearance of the area. From some angles, the massing would add to this harm. The red finish would emphasise this. While the colour could be changed, this is part of the overall design concept and to do so would be unlikely to improve its acceptability. With regard to the scale of the proposed development, that is to say the relative size, this would also be at odds with the relevant characteristics of the area, which I have found should focus on the High Street. Taken as a whole, the proposals would not amount to good design but fall well short of exceptional for their context.

CONCLUSIONS AGAINST DEVELOPMENT PLAN POLICIES

30. The concept of design is encapsulated in many ways in the development plan. It includes consideration of townscape and many other matters. It is considered particularly important for tall buildings as below. For the reasons set out above, the design of the proposals would be at odds with the approach enshrined in

the Local Plan and supporting documents. The scheme would be contrary to the 2021 London Plan, including policies:

- a. GG2, which promotes the best use of land, particularly of brownfield land, in Opportunity Areas, and well-connected by public transport. A design-led approach is expected to determine the optimum development capacity;
- b. D3, which refers to site allocations and requires consideration of design options to determine the most appropriate form that responds to a site's context and capacity for growth, including buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions;
- c. D4, which expects applicants to use design review panels. Paragraph 3.4.8 adds that *...the higher the density ... the greater this scrutiny should be of the proposed built form, massing, site layout, external spaces, internal design ... because these elements of the development come under more pressure as the density increases;*
- d. D9, for tall buildings, which sets criteria including identifying appropriate locations, considering impact from a range of distances, reinforcing spatial hierarchy, and an exemplary standard of architectural quality. Supporting paragraph 3.9.4 adds that the *higher the building the greater the level of **scrutiny** that is required of its design.*

31. The scheme would conflict with all or parts of 2020 LLDC Local Plan policies:

- a. Objective 2, to establish and maintain locally distinctive neighbourhoods while providing excellent and easily accessible social infrastructure;
- b. 3.1, which directs large-scale buildings to within the Metropolitan Centre;
- c. 3.2: proposals for mixed-use development along Stratford High Street must demonstrate that they would enhance the character, townscape and function as a lively main street. Paragraph 12.11 explains that, despite the existence of tall buildings in this location, new developments should generally be considerably lower in height, with key emphasis placed on design and integration of proposed uses within the townscape;
- d. BN.1, which considers proposals to be acceptable where they would respond to place in accordance with principles, including respect for existing typologies within the urban fabric;
- e. BN.4, that all residential development should achieve the highest possible standards and quality in design and respect the scale and grain of their context; and that all major development schemes should demonstrate an acceptably high quality, through independent design review;
- f. BN.5, which expects tall buildings to be located within Centre boundaries. Outside these, they will be considered acceptable where they exhibit exceptionally good design, demonstrating this through independent design review. Criteria 1, 4 and 5 add that proposals should demonstrate an appropriate proportion, form, massing, height and scale for their context; and positive contributions to the public realm at ground level, and to the surrounding townscape.

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32. For the reasons set out above, the proposals would also conflict with design policy in NPPF§131, which states that: *The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve*. NPPF§135 includes criteria to ensure development: will function well and add to the overall quality of the area, be visually attractive as a result of good architecture, be sympathetic to local character, optimise potential to accommodate an appropriate amount and mix of development. NPPF§139 adds that it expects that development *that is not well designed should be refused, especially where it fails to reflect local design policies*

Heritage

33. Stratford stands on the line of a Roman road close to a fording point over the River Lea. By the 17th and 18th Centuries there was almost continuous development from the River to the Broadway, in the heart of what is now the CA. The development of the railways in around 1840 brought significant expansion. Decline came in the 20th Century, followed by investment in the Stratford Shopping Centre in the 1970s, and then the Olympic Park in preparation for the 2012 games. The LLDC was formed to administer the area after the games closed.
34. The CA runs east from the edge of the railway line, close to the appeal site, past the Grade II listed St John's church and beyond. Its significance comes from its irregular, pre-industrial layout around the Church which, with its trees and churchyard acts as a landmark in views both into and within the CA. Also, from its surviving historic buildings, including the Gurney Memorial in front of the church, those along the south side of the Broadway, including the Old Town Hall with its tower and cupola, and the string of NDHAs leading up to the bridge over the railway.
35. The NDHAs include 361-383 High Street. Although varying in height and style, the significance of these includes their high quality composition and predominantly red brick. At the end of this view is the distinctive Art Deco façade to the Rex Cinema. Just outside the CA, and also locally listed, the Stratford Market Station (now on the DLR) also has red brick dressings and detailing, and serves as a reminder of Stratford's historic railways, while the Stratford Workshops on Burford Road are high quality survivors of the town's industrial past. As well as surviving historic fabric, many of these NDHAs form a group, the appreciation of which is enhanced by the extent of visible sky and uncluttered skyline in the setting looking along the road.
36. I saw that the proposal would be apparent in many views from within the CA. Of relevance to its significance, it would be prominent when looking down the Broadway towards the site, where it forms a part of the backdrop, and so the setting to this important part of the CA. With regard to townscape, I have found that views of the tower would move the focus from the tall buildings along the north side of the High Street to that of the proposed tower, and that by the end of the Broadway it would dominate the outlook. This would include distracting from the prominent Town Hall cupola. Given that the contribution that setting makes to the significance of the CA includes views down the Broadway, with an appreciation of the historic buildings along the south side, the interruption of such a tall tower at this point would distract significantly

from that appreciation and the views which include them. I was told that the proposed red colour would echo the row of historic buildings in the CA. While I find no fault with this as inspiration, I doubt that it would be readily apparent to the casual observer.

37. In considering townscape (above) I have treated schemes which are under construction or permitted as part of the context. With regard to heritage assets, different considerations apply, and where the cumulative impact of a series of developments would be negative, this should be taken into account. I saw on my visits that there is a degree of harm to the setting of the CA from the existing towers. While I have found no significant harm to the general townscape from these, with regard to the CA they distract from an enjoyment and appreciation in some views. While a lesser consideration than the impact of the tower alone, the cumulative effect adds to the harm I have found.
38. For all these reasons, the proposals would fail to conserve the CA and I assess this as less than substantial harm under NPPF§215 which should therefore be weighed in the balance against the public benefits of the scheme. The indirect effects on the NDHAs, that is on the contribution that setting makes to their significance, should also be taken into account.
39. It was common ground, and not an issue, that of the buildings on the site, 306-308 High Street (the Former West Ham Labour Party building) is 'locally listed' and so an NDHA as defined by the NPPF. Also, that the Builders Arms pub has heritage value and significance and should also be considered a NDHA. Comparing the scheme with the existing situation, there would be demonstrable harm to the significance of the NDHAs on the site through their complete loss. However, as an allocated site, the development of which would be likely to require their demolition, a balanced judgement means that the loss of these buildings should not result in dismissal.
40. For these reasons, the scheme would be contrary to London Plan Policy D9Cd) which expects proposals for tall buildings to take account of, and avoid harm to, the significance of London's heritage assets and their settings. Proposals resulting in harm will require clear and convincing justification, and that there are clear public benefits that outweigh that harm. The buildings should positively contribute to the character of the area. The scheme would conflict with Policy HC1 which expects that proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. The cumulative impacts of incremental change from development on heritage assets and their settings should also be actively managed.
41. The proposals would be contrary to Local Plan Policies BN.1, which considers schemes acceptable if they respect existing typologies, including heritage value, and draw design cues from the form of the area in terms of its scale (height and massing), and enhance their architectural and historic setting; BN.5, which adds that proposals for tall buildings that are likely to have a significant adverse impact on heritage assets will be considered unacceptable; and BN.17 which considers proposals would be acceptable where they conserve or enhance heritage assets and their settings.

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42. When considering the impact of a proposed development on the significance of a designated heritage asset, in this case the CA, NPPF§212 expects great weight should be given to the asset's conservation, which, for heritage policy, it defines as the process of maintaining and managing change in a way that sustains or enhances its significance. As I have found that some of the significance of the CA derives from the contribution made by its setting, where that would be harmed, so would the CA.
43. NPPF§215 deals with CAs, while NPPF§216 covers NDHAs. I acknowledge that not all the relevant development plan policies require weighing harm against public benefits, or reaching a balanced judgement, unlike the NPPF. I accept that this should be carried out and I do so below.

Public realm

STREET LEVEL AREAS

44. The existing site includes a small area of public space adjacent to the High Street and Lett Road. It surrounds a mature Indian Bean tree and abuts the vacant buildings. The scheme would increase the public realm which would extend back beyond the front of the existing pub. A promontory over the Channelsea, effectively a wide balcony, would increase the limited area of public space while new planting would improve the appearance and biodiversity. Overall, this could be an area to pass through to or from the Carpenter's Estate, or a space to dwell in outside the proposed community pub. The design includes a focus on the safety of women and girls.
45. While the scheme would increase the area of public space along the High Street, and improve its quality compared with a vacant and derelict site, the introduction of 700 students would put significant additional pressure on what would still be a relatively small area compared with the size of the building. The parking proposals (see below) would undermine the quality of the space to a greater or lesser degree.
46. I therefore find that there would be harm to the reasonable expectations for public realm provision as a result of increased pressure. Consequently, the design would not fully comply with London Plan Policy D8, which expects proposals to create new public realm where appropriate. Paragraph 3.8.2 explains that it is particularly important in higher density development to recognise the demands for higher levels of comfort in places where people will wish to sit, play, relax, meet, and dwell outside. The proposals would be contrary to Local Plan Policy BN.5.4 which, to amount to exceptionally good design, expects that schemes should demonstrate a positive contribution to the public realm at ground level.

ACTIVE FRONTAGES

47. The High Street shows efforts to improve the extent of mixed active frontages, with varying degrees of success. I saw that a number of recent developments have embraced the opportunity to enliven the streetscene with views into the ground floors of buildings, but others have covered the glass with vinyl sheets or blinds. To my mind the limitations of existing buildings makes it more rather than less important that new development should include active frontages.

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48. The proposals would develop the Lett Road end of the building as a community pub for at least 3 years. Coupled with space outside, and the potential for tables and chairs, this should create a lively streetscene at the junction. With the caveat that the long term success of the pub is not a foregone conclusion, I accept that this would be likely to follow. For the remainder of the frontage however, including the length alongside the railway which would be visible to many over the parapet to the bridge, the level of activity would be much lower than might be expected of a high standard of design. The quality of public realm would also be diminished by the on-street parking proposals (see below). While there would be active frontage to the rear, I find that this would have limited value in the streetscene.
49. Altogether, I find that the scheme would be contrary to Local Plan Policy 3.2 for Stratford High Street which, as above, expects proposals to function as a lively main street, contributing to active lower levels facing onto the street to create active street frontage. It would conflict with Local Plan Policy BN.4.10: *Designing development* insofar as much of its ground floor would fail to generate an active street frontage.

Other Matters

Blue Badge parking

50. It was acknowledged that London Plan Policy T6.1 for residential development includes student accommodation. Part G requires residential proposals to provide a minimum of one Blue Badge parking bay (reserved for people with disabilities) for 3% of the dwellings; Part H requires these be for residents only. The LLDC took a pragmatic approach to parking for student accommodation and did not always insist on full compliance. A deficiency in Blue Badge parking was not a reason for refusal. The scheme would provide a single blue badge space. A clause in the s106 Agreement would commit the Appellant to providing 3 more spaces if the need arose. An analysis of alternative ways of providing the bays on site highlighted potential conflicts between vehicles and pedestrians; these would also be detrimental to the design of the public realm.
51. On the other hand, the site is in a highly sustainable location. There was evidence that many with mobility disabilities use public transport without the need for a vehicle. In the event that a shortfall could be shown, the planning obligations could provide for more on-street parking spaces, albeit at the cost of the quality of the public realm (see above). Overall, I find that there would be a small degree of harm, and so conflict with London Plan Policy D8N which expects developments to ensure that on-street parking is designed so that it is not dominant or continuous.

Privacy and overlooking

52. The proposals would result in some direct views from student rooms into the Edge Apartments, specifically one window to one flat on each of eight floors. I could not see this on my visits due to scaffolding, but the relationships were presented in the evidence. Local residents also expressed their anxiety. The Appellant's closing concedes that any harm would conflict with policy, and argues that it should be weighed in the balance. I agree. I find that the effect of the scheme on privacy, as a result of overlooking, would be contrary to

London Plan Policy D9 part C1)a)iii which concludes that such proposals should protect amenity or privacy; and Local Plan Policy BN.5.8 which considers tall buildings would be unacceptable should they have a significant adverse impact on the amenity of the surrounding area including overlooking.

Alternative scheme

53. In 2022 the LLDC granted permission for a part-25 storey redevelopment on the site. At the Inquiry, I set out my understanding of how alternatives should be evaluated, with regard to case law¹. The Appellant disagreed and argued that the *tilted* balance in NPPF§11d)ii did not allow any considerations of alternatives. Be that as it may, as the extant scheme would not satisfy more recent fire safety issues, notably the need for a second fire escape staircase, it would not be deliverable. In any event, given my conclusions below, nothing in this Decision turns on any alternative.

Benefits

54. The SoCG on Planning Benefits identifies 28 of these, including financial benefits secured through planning obligations and the Community Infrastructure Levy (CIL). The Council considered that many of these would overlap and the parties gave them different weight.
55. Those to which I attach significant or greater weight are: the provision of 700 student rooms, equivalent to 280 homes, of which 35% would be affordable, and two for local students; redevelopment of a vacant site within an Opportunity Area, on brownfield land with particularly good access to public transport. I give more moderate weight (collectively) to benefits to both the economy and through investment, including the s106 and CIL contributions, and to employment, particularly local employment. The vacant public house would be replaced by a community pub for a minimum of 3 years and there would be advantages from a design focused on the safety of women and girls.
56. While there would be significant benefits to public realm and biodiversity compared with the existing vacant site, these are below what might be reasonably expected. The Council argued that the weight to housing should be diminished, citing evidence that there is already a significant oversupply of student accommodation in the Borough. I disagree in terms of calculating demand. While I accept that a large development of student accommodation, with no other type of tenure, is likely to exacerbate any imbalance in the community, I give this limited weight compared with the overall shortfall.

Planning balance

DEVELOPMENT PLAN

57. As a result of the impact of such a tall tower on the townscape, as well as the lesser effects of its continuous plan form and forward position, the proposals would fall well short of exceptional or exemplary design, at odds with Local Plan policies. While the focus of my objections is on the townscape impacts, I have also found harm to heritage (to be weighed against public benefits), public

¹ [2017] PTSR R (MountCook Land Ltd) v Westminster CC (CA) Auld LJ

realm (both street level areas and lack of active frontage), privacy, Blue Badge parking provision and the likely imbalance in housing provision in the area. The proposals would be contrary to the policies on these set out above.

58. On the other side of the balance, the scheme would provide a substantial amount of housing and affordable housing at a suitable location and the other benefits listed above. Of particular relevance, it would gain some support from the parts of London Plan Policies GG2 and D3 which aim to make the best use of land; Policy SD1 for affordable housing in Opportunity Areas with the caveat that it should create mixed and inclusive communities; from Policy GG4 which requires that more homes are delivered and which includes reference to specialist housing, which might include student accommodation; general support from Policy H15, which seeks student accommodation providing that it contributes to a mixed and inclusive neighbourhood; and from Policy GG5 and Policies E1-E3 with regard to offices and affordable workspaces.
59. The scheme is supported by Local Plan Policies SP.2, in its aim to maximise housing, and SP.1 to deliver employment opportunities. Policies B1 and B4 support employment use and workspaces on the site, while Policy 3.2 promotes the regeneration of Stratford High Street. The proposals gain support from policy regarding: the principle of redevelopment; site optimisation; community pub use; and the re-provision of office space. Student accommodation would comply in principle and it would meet Safety in Public Realm design guidance².
60. Overall, I find that the weight to the conflicts would far outweigh that which I give to those which support the proposals. On balance, I find that the scheme would be contrary to the development plan as a whole.

MATERIAL CONSIDERATIONS

Tilted balance

61. However, compliance with the development plan is not the end of the story. Of the material considerations, which might indicate otherwise, the most important here is the latest version of the NPPF. Relevant changes include NPPF§11d)ii and §125c. At the time of determination, NPPF§11d) did not apply as the LLDC could easily demonstrate a 5 year housing land supply. However, with the reallocation of the site to Newham, which can demonstrate only 2.14 years' housing land supply and only 61% of its housing delivery target, this is no longer the case. Adopting the instruction in 11d)ii, which applies through both routes, the proposals should only be dismissed if the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole, with particular regard to key policies. This *tilts* the balance. NPPF§125c) gives *substantial weight to the value of using suitable brownfield land within settlements for homes ..., proposals for which should be approved unless substantial harm would be caused*.
62. Of the policies to which I must have particular regard, under NPPF f/n9, the scheme would be in a sustainable location (with the highest PTAL), make effective use of land, and provide affordable homes. However, on the matter of securing well-designed places, as set out above and in my conclusion on the

² Women, Girls and Gender Diverse People's Safety in Public Realm Design Guidance, Sept. 2024

development plan, the proposals would fall well short. On other policies, not referred to in NPPF f/n9, the scheme gains weight from NPPF§125c). While the changes to paragraphs 11d)ii and 125c mean that the balance would be closer, this does not mean development at any price or that any height of tower would be acceptable, nor does it annul the design emphasis in the NPPF.

63. Both the architect and the planning witness acknowledged, as they must, that there was a limit to the height at which the tower would be acceptable, in architectural and townscape terms respectively, and that above a certain height, the harm that it would cause would significantly and demonstrably outweigh the benefits. It follows that, regardless of NPPF§11d)ii and §125c, it is open to me to judge whether or not the proposals would exceed this tipping point. From my site visits and the evidence, I find that, even on the *tilted* balance, the 35 storeys proposed would cause considerable harm. This also equates to conflict with most of the criteria in NPPF§135 and with NPPF§139.
64. There would be less than substantial harm to heritage assets which, as above, should either be weighed against public benefits or a balanced judgement reached. Absent other harms, these would be outweighed by the benefit of new housing. Nevertheless, the harms should be taken forward to the planning balance. I acknowledge that designated heritage assets may be treated differently under NPPF§11d, however, as harm to the CA does not provide a strong reason for dismissing the appeal, I have taken this no further.
65. Of less weight, there would be harm to the reasonable expectations for public realm provision and to the welfare of those with disabilities as a consequence of a shortfall in Blue Badge parking. While more spaces could be added, this would be at the cost of the design of the public realm. There would be other benefits, as set out above, but collectively I find that these would do no more than balance out the less serious harms.
66. There would also be harm through the loss of the NDHAs on the site. However, given agreement that the site should be redeveloped, I give this limited weight.

Overall planning balance

67. Overall, while NPPF§11d)ii means that the balance should be more nuanced than when it was considered by the LLDC, or by me when measured against the development plan, I find that the collective harm, and that from excessive height in particular, would *significantly and demonstrably outweigh the benefits* in the *tilted* balance and cause *substantial harm* with regard to NPPF§125. I therefore determine the appeal in accordance with the development plan.

Conclusion

68. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

D Nicholson

INSPECTOR

APPEARANCES

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INTERESTED PARTY:

Annie Liu

Local resident

INQUIRY DOCUMENTS

CD27-01	Appellant's Opening Statement and list of appearances
CD27-02	LPAs Opening Statement and list of appearances
CD27-03	Reg 122 Compliance Statement - High St 22012025
CD27-04	Section 106 Agreement - Monitoring Costs - Correspondence
CD27-05	Appellant's Response to Regulation 122 Compliance Statement
CD27-06	302-312 Stratford High Street TfL further letter 230125
CD27-07	Approach to Fire Safety Technical Note #4 - Jan 2025
CD27-08	Fire Statement - Issue 3
CD27-09	Proposed - GA Plan - GF Plan 2485-HWS-ZZ-00-DR-A-05-100_P02
CD27-10	Proposed - GA Plan - Level 01 2485-HWS-ZZ-01-DR-A-05-101_P02
CD27-11	Proposed - GA Plan - Level 02-11 2485-HWS-ZZ-02-DR-A-05-102_P02
CD27-12	Proposed - GA Plan - Level 12 2485-HWS-ZZ-12-DR-A-05-112_P02
CD27-13	Proposed - GA Plan - Level 13 2485-HWS-ZZ-13-DR-A-05-113_P02
CD27-14	Proposed - GA Plan - Level 14-33 2485-HWS-ZZ-14-DR-A-05-114_P02
CD27-15	Proposed Landscape Plan: Roof 2485-HWS-ZZ-ZZ-DR-L-0003_P01
CD27-16	Urban Greening Factor 2485-HWS-ZZ-ZZ-DR-L-0007_P01
CD27-17	Proposed plan: 12th Floor Amenity Terrace 2485-HWS-ZZ-ZZ-DR-L-0008_P01
CD27-18	Planting plan: 12th Floor Amenity Terrace 2485-HWS-ZZ-ZZ-DR-L-0009_P01
CD27-19	Appeal Correspondence from NHS
CD27-20	Statement of Common Ground Topic-specific - Viability
CD27-21	Reg 122 Compliance Statement as at 27.01.25 with Dominus Comments
CD27-22	Errata Sheet - Appellants Proof of Evidence - Design Appendix 5
CD27-22.1	L306 Proposed High Street Wider Streetscape Elevation Rev F.
CD27-22.2	1301-A-03-300-_Revision_M
CD27-23	Compare Redline Reg 122 Compliance Statement - 27012025 (CMS) v 28012025 (PM)
CD27-24	<i>Trustees of the Barker Mill Estates v Test Valley Borough Council</i> , Secretary of State for Communities and Local Government [2016] EWHC 3028 (Admin)
CD27-25	List of Conditions agreed by Appellant and LPA
CD27-26	Note to Inspector - Local Employment Obligations 29012025
CD27-27	Reg 122 Compliance Statement - Stratford High St - PM Comments 29012025
CD27-28	LPA's Closing Submission
CD27-29	Appellant's Closing Submission
CD27-30	Agreed Blue Pencil S106 Agreement
CD27-31	Letter from A Wang