



Appeal Decision

Site visit made on 11 March 2025

by **A Parkin BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal Ref: APP/E5900/W/24/3349714

381 Mile End Road, London E3 4QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr Veli Lutfi Veli against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/24/00283.
 - The development proposed is a change of use of first and second floors, addition of new set-back top floor, re-façading of property with brickslips and use of first, second and new third floors as a large HMO (Sui Generis).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have made minor amendments to the description of the proposed development in the banner heading above, in the interests of clarity and to remove superfluous words.
3. Given the appeal site's location near to listed buildings, and within a conservation area, I have had regard to sections 66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Main Issues

4. The main issues are the effect of the proposal on:
 - The living conditions of future occupiers with particular regard to disturbance from air conditioning equipment at the rear of the building;
 - Housing provision in the area; and,
 - Designated heritage assets.

Reasons

Living conditions

5. At the present time the ground floor of the building is occupied by a fast-food restaurant, with housing above. At the rear of the building, on a flat roof and behind a timber boarded fence, albeit one with several significant gaps, are a number of air conditioning units.
6. The Council has provided no substantive evidence that the air conditioning units cause, or have caused, disturbance such as noise or vibration to the current, or to

the past occupiers of housing in the building. However, it is very likely the units would generate some level of noise and vibration when operating.

7. Policy D.ES9 (noise and vibration) of the Tower Hamlets Local Plan 2031 (THLP) requires that noise sensitive development should be separated from existing operational noise, and that a noise assessment is provided where noise sensitive development, as housing would be, is proposed. The policy goes on to state that in such circumstances development is required to robustly demonstrate how conflict with noise from existing uses would be avoided.
8. The provision of a noise assessment would be used to inform the design of the proposed development to mitigate any disturbance and would logically be submitted as part of the application process.
9. However, no such assessment has been provided. I do not consider the appellant's suggestion, that the submission of a noise assessment could be controlled by a pre-occupation planning condition, would be effective or consistent with the development plan. Depending upon the outcome of the assessment, revisions to the proposal may be required for noise mitigation purposes.
10. For these reasons, I am not satisfied the proposal would not adversely affect the living conditions of future occupiers, with particular regard to disturbance from air conditioning equipment at the rear of the building. It would, therefore, conflict with policy D.ES9 of the THLP in this regard. I can find no conflict with policy D.DH8 (amenity) of the THLP.

Housing provision

11. There is some dispute as to the lawful and the existing use of the upper floors of the appeal building. The appellant accepts that in 2011, at the time the Council refused planning permission¹ for a previous proposal for a mansard roof extension at the property, there was a 3-bedroom flat at second floor level. However, they claim that some six years ago, the layout was changed to the layout shown on the existing drawings submitted with this proposal, which shows a 2-bedroom flat at second floor level. Consequently, the appellant considers this layout to be lawful.
12. However, the appellant has provided no substantive evidence to support this position. Without seeing the interior of the building it is not possible for me to be certain of the existing layout. The appellant did not consider it necessary for me to see the interior of the property² to determine the appeal.
13. From the evidence before me, the lawful use of the second floor of the building is for a 3-bedroom flat, as shown on the plans dating from 2011. Without compelling evidence to the contrary I have considered this to be the existing second floor layout.
14. With reference to this layout, the appellant considers two of the bedrooms to be very small and notes that there is no private amenity space for the 3-bedroom flat. The dimensions of the existing bedrooms are not provided and whilst two of the bedrooms are significantly smaller than the main bedroom, there is no compelling evidence they are unsuitable for young children or infants.

¹ LPA Ref. PA/11/00616

² Section G (1) of the Appeal Form

15. Whilst there is no private amenity space for any of the flats shown on the existing layout, there is an extensive area of parkland in the immediate vicinity of the site, on both sides of Mile End Road and linked by a *green bridge* over the road. This would be very accessible to residents of the building and I see no compelling evidence the existing 3-bedroom flat would be unsuitable for a family with young children.
16. The proposal would result in the loss of the 3-bedroom flat on the second floor and two 1-bedroom flats on the first floor. They would be replaced by an 11-bedroom HMO, including the proposed mansard roof extension.
17. Houses in Multiple Occupation (HMO) are an important part of overall housing supply and I note there is expected to be an increasing demand for HMO-style accommodation in Tower Hamlets and that the Council considers that high quality large-scale HMOs can help meet this need.
18. However, no evidence of an identified need in this area has been provided by the appellant. Instead, the appellant refers to an appeal concerning a proposal for a change of use to a large HMO for up to 11 people³ in the London Borough of Barnet, in outer London, which was allowed in 2020. I am not fully familiar with that appeal, but I note that there are some differences with the appeal before me, including that the existing use there was said to be an HMO, and the location is in a different part of London.
19. The views of that Inspector, based on the evidence before them, in relation to the need for low cost housing in London are noted. However, I do not accept that this demonstrates a need for a large HMO at this location, several miles away and in an inner London Borough. Similarly, no compelling justification for the loss of a 3-bedroom flat that is suitable to be occupied by a family has been made. Each proposal should be determined on its individual merits and the submitted evidence, which is what I have done in this case.
20. For these reasons, the proposed development would adversely affect housing provision in the area. It would, therefore, conflict with policies S.H1 (meeting housing needs) and D.H7 (housing with shared facilities (houses in multiple occupation) in this regard.

Designated heritage assets

21. The appeal building is the easternmost building in a parade on the northern side of Mile End Road. Within the parade of buildings, to the southwest of the appeal site, are two Grade II listed buildings, with a further Grade II listed building to their rear. These are designated heritage assets and the buildings facing onto Mile End Road are related visually, functionally and historically.
22. The Guardian Angels Roman Catholic Church⁴ is the most prominent building on this part of Mile End Road. It was constructed of red bricks with stone detailing in a Perpendicular style at the beginning of the 20th century. It includes a large traceried window onto Mile End Road, above and to the side of the main entrance, with smaller traceried windows on the north eastern side elevation at the rear. Above the entrance is a bell tower, which has an octagonal shape with a crenelated detailing near to the top and with a slim copper spire above.

³ Ref. APP/N5090/W/20/3251995

⁴ List Entry Number: 1088079

23. Next door to the church to the east is the GII listed Guardian Angels Presbytery⁵. This is a three storey brick building, which is set back a short distance from the street, and constructed of similar materials to the church. At third floor level, the front of the Presbytery also includes a crenelated detail, to further emphasise its relationship to the church.
24. To the rear of the church and separate from it is the GII listed Guardian Angels Roman Catholic Primary School⁶, which dates from the very late 19th century. It is roughly cube-shaped with three main storeys and regular patterns of fenestration on the northern and eastern elevations, and with a railed parapet at roof level. Whilst it contains some red brick details, it is predominantly constructed from buff stock bricks.
25. The significance of these listed buildings, insofar as they relate to this appeal, stems from their historical function within the area, together with their design and construction materials.
26. These three listed buildings, together with the remaining locally listed buildings within the parade facing onto Mile End Road, including the appeal building, are located in the south of the Clinton Road Conservation Area (CRCA). Clinton Road itself is located in the north of the CRCA, with an area of parkland to the east, which extends across a broad 'green bridge' over Mile End Road.
27. From the limited information provided in relation to the CRCA, and insofar as it relates to the appeal before me, the significance of this designated heritage asset stems from the design and materials of the buildings to be found there and the relationship with the streets and spaces.
28. At the present time, the GII listed church, presbytery and primary school are visible from the pedestrian *green bridge* over Mile End Road. The building next door, No 379, was extended to include a mansard roof extension in 2015. This does obscure some elements of both the church and the presbytery in views from the *green bridge*.
29. The proposed development would entail the erection of a mansard roof, set back a short distance from the front and the rear of the building to form small balconies with glass balustrades. The mansard roof would be constructed of copper style fibreglass, with aluminium grey windows on the front, northeast side and rear, according to the submitted drawings.
30. Whilst not shown on all the elevation drawings, an existing fume extraction duct, presumably serving the fast food restaurant at ground floor level, would be relocated and would be positioned on top of the proposed mansard roof.
31. In the glossary of the National Planning Policy Framework (December 2024) (the Framework) the setting of a Heritage Asset is defined as *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve*.
32. The scale, massing and position of the proposed mansard roof, and the glass balustrades would impede views of the upper part of the presbytery, as well as parts of the church and primary school, from the *green bridge*. Furthermore, the

⁵ List Entry Number: 1065111

⁶ List Entry Number: 1357530

proposed mansard roof would be taller than, and would extend further to the front and to the rear, than the mansard roof at No 379.

33. Whilst not completely hidden, interesting architectural details, such as the crenelated front of the presbytery, traceried windows on the side elevation of the church and the brickwork details and windows on the primary school would be largely obscured by the proposed development in views from the *green bridge*.
34. In addition, the proposed extraction duct on top of the roof would be more visually prominent than the existing duct, and would further detract from the setting of these listed buildings.
35. The proposed mansard roof would be located on an additional storey that was added to the appeal building in 1996, and which is constructed of buff-coloured bricks. The first floor, and the ground floor to the side and rear are covered with a white render. The appellant proposes to add 'brick slips' to the building, which would give it a greater visual coherence. However, the 'brick slips' and the fibreglass for the proposed mansard roof, are contemporary materials, and I do not consider they would benefit the significance of the locally listed property and would further detract from the setting of the nearby listed buildings.
36. The proposed development would cause less than substantial harm to the setting of the church, the presbytery and the school and so to the character and appearance of the CRCA.
37. With reference to paragraph 215 of the Framework, less than substantial harm to a designated heritage asset should be weighed against the public benefits of the proposal. The proposal would entail the provision of additional housing. However, I have already found that a large HMO at this location would adversely affect housing provision and it has also not been demonstrated there would be no harm to the living conditions of future occupiers.
38. There would be limited economic and social benefits during construction and upon occupation. However, Paragraph 212 of the Framework requires that great weight be given to the conservation of a designated heritage asset. In this case, I am not satisfied that the less than substantial harm that would be caused to the settings of three listed buildings and to the character and appearance of the CRCA, would be outweighed by the limited public benefits of the proposed development.
39. For these reasons, the proposed development would adversely affect designated heritage assets. It would, therefore, conflict with Policies S.DH1 (delivering high quality design) and S.DH3 (heritage and the historic environment) of the THLP, and with the Framework, in this regard.
40. The Council's decision notice also refers to conflicts with policies in the London Plan 2021. However, these are not in the evidence before me and so I have not considered them.

Other Matters

41. The Council has misapplied Policy D.H3 (housing standards and quality) of the THLP in terms of private amenity space. Whilst the proposal is said to provide a total of 18.45 sqm of private amenity space, at the front and rear balconies, this would be available only to the occupiers of the rooms within the mansard roof.

Occupiers on the first and second floors would have no direct access, and would need to pass through the (private) mansard roof rooms to reach the balconies.

42. However, as I am dismissing the proposal for other reasons there is no need for me to seek the views of the main parties on this matter.

Conclusion

43. For the reasons given above, I conclude the appeal is dismissed.

Andrew Parkin

INSPECTOR