
Appeal Decision

Site visit made on 10 June 2025

by **C Livingstone MA(SocSci) (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 August 2025

Appeal Ref: APP/E5900/W/24/3355786

231 Mile End Road, London E1 4AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Sheikh Hossain against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/24/01269/NC.
 - The development proposed is for the retention of the installed extractor system. Proposed increase in height of flue.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I recognise that the development has commenced. However I have altered the description of development above to remove the words 'part retrospective' as this, of itself, is not an act of development having regard to s55 of the Town and Country Planning Act 1990.

Main Issues

3. The main issues are:
 - the effect of the development on the living conditions of neighbouring occupants with regard to odour and noise; and
 - the effect of the development on the character and appearance of the host property and whether it would preserve or enhance the character or appearance of the Carlton Square Conservation Area (CSCA).

Reasons

Living Conditions

4. The upper floors of the neighbouring buildings on either side are in residential use and these properties are near the flue. Based on the evidence before me odour controls have already been installed within the extract system and the appeal proposal is for its retention as well as an increase in the height of the flue.
5. There is no accompanying detailed analysis from the appellant regarding the likely noise impacts of the proposed development. The appellant has highlighted that as part of a previous planning application, which included the extraction flue as existing, the supporting information established that the extraction system was designed to avoid excessive noise and silencers and anti-vibration mounts would ensure that the noise impacts would remain unchanged.

6. However, as the proposed scheme would result in the increase of the height of the flue, I am not certain that the noise from the flue or its impact on neighbouring occupants would remain unchanged. Without such an analysis, I am unable to find that neighbouring occupants would not be adversely affected by noise from the proposed extraction system.
7. The Kitchen Odour Risk Assessment , July 2024, (KORA) carried out by Air Quality Assessments Ltd and submitted in support of the application found that the odour impact risk of the existing use of the building to be very high. In light of this the assessment establishes that a very high level of odour control is required to mitigate potential odour impacts.
8. The extraction system includes several elements designed to filter the air and remove pollutants. The KORA found that these odour controls are in excess of that required for a very high level of odour control. Based on the evidence before me, if suitably cleaned and maintained, the extraction system would not harm the living conditions of neighbouring occupants in regard to odour.
9. Representations submitted in relation to the proposed scheme raise concerns regarding the odour impact of the development. However, as the appeal site is within an area that includes a high number of commercial units, where there are a number of restaurants and takeaways it is unclear that any existing odour impacts are a result of the operation of the existing extraction system.
10. For the reasons detailed above I cannot be certain that the proposal would not harm the living conditions of neighbouring occupants with regard to noise. Therefore, it would conflict with Policy D.DH8 of the Tower Hamlets Local Plan 2031 (2020) (LP) and Policy D14 of the London Plan (LonP) which require that development proposals do not create unacceptable levels of noise during the construction and the life of the development.

Character and Appearance

11. The appeal site is located within the CSCA its significance is derived, in part, by well-preserved late Victorian terrace housing with Carlton Square providing an open area of green space. The appeal site is located on Mile End Road on the southern edge of the CSCA where the properties are a mix of commercial and residential uses. Two Jewish Cemeteries are located between Mile End Road and Alderney Road providing additional areas of open space and signifying the religious and cultural evolution of the area.
12. The appeal building is a single storey commercial property that fronts on to Mile End Road, where the architecture is varied in terms of both design, height and scale. The majority of the buildings on this part of the street comprise commercial property on the ground floor with residential accommodation above. The flat roof of the building is bound to the front and rear by parapet walls.
13. The host building is of a simple contemporary design with a modern shop front and fascia sign. In light of these factors its contribution to the significance of the CSCA is minimal.
14. The flue is set back from both the front and rear elevations, this position as well as the parapet walls limits views of it from within the wider area. Although the proposed increase in height would increase its prominence to a degree, its

position and surrounding development are such that views of the flue would be localised and largely limited to glimpsed views on the opposite side of the street. With consideration given to the commercial nature of the vicinity, where several buildings require similar extraction equipment, I find that it would not affect the significance of the CSCA.

15. For the reasons detailed above the proposal would respect the character and appearance of the host property to the extent that it would preserve the character and appearance of the CSCA. Therefore, there would be no conflict with Policies S.DH1 and S.DH3 of the LP and Policies D4 and HC1 of the LonP when read together these policies require that development is of an appropriate scale and height in its site and context and preserves or enhances designated heritage assets, conserving their significance.

Other Matters

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
17. The development supports a commercial operation that provides both short term and long-term economic benefits. There have also been environmental benefits through the redevelopment and use of an existing building. The Framework identifies that decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth and this scheme does support this aim. Despite the limited scale of the development, I attribute modest weight to these benefits.
18. I have found that, subject to appropriate conditions, the development would not cause unacceptable harm to the living conditions of the neighbouring occupiers with regard to odour and would preserve the character and appearance of the CSCA and the host building. However, there is no substantive evidence before me to demonstrate that the noise produced by the proposal would not harm their living conditions in regard to noise which leads to a conflict with relevant development plan policies. This is a conflict with the development plan as a whole. Overall, the benefits that arise from this development do not outweigh the identified harm.

Conclusion

19. The appeal scheme conflicts with the development plan and the material considerations do not indicate that the appeal should be determined other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

C Livingstone

INSPECTOR