



Appeal Decision

Site visit made on 16 September 2025

by **J Heppell BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 October 2025

Appeal Ref: APP/E5900/W/25/3368922

35A Brick Lane, Tower Hamlets, London E1 6PU

- 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 Epstein against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/25/00421.
 - The development proposed is change of use from an office (Class E) to flat (Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An Article 4 Direction came into effect on 18 August 2022 in part of the Borough removing the ability to change from Class E (commercial, business and service) to Class C3 (dwellinghouses) of the Town and Country Planning (Use Classes) Order 1987 (as amended) except with express planning permission. As a consequence, planning permission is required for the proposal.
3. I have removed the words “retrospective planning” from the description of development since, although the appeal site has been in residential use since 2020, the proposal includes internal reconfiguration works. A previous application for a change of use from office to residential was refused on 25 January 2025¹.

Main Issues

4. The main issues in this appeal are:
 - the effect of the proposal on the supply of employment floorspace;
 - the effect of the proposal on the living conditions of future occupiers with particular reference to outdoor space; and
 - whether the proposal would make satisfactory provision for cycle parking.

¹ LPA reference PA/23/02168

Reasons

Supply of employment floorspace

5. The appeal site comprises the first floor of 35 Brick Lane, which has been converted from an office to a one bedroom flat. The ground floor of the building is in commercial use while the upper floors are in residential use.
6. Part 2 of Policy D.EMP3 of the Tower Hamlets Local Plan 2031 Adopted January 2020 entitled “Managing growth and sharing the benefits” (THLP) states that development should not result in the net loss of viable employment floorspace outside of the designated employment locations or local employment locations except where they: (a) provide evidence of active marketing over a continuous period of at least 24 months at a reasonable market rent which accords with indicative figures; or (b) provide a robust demonstration that the site is genuinely unsuitable for continued employment use due to its condition, amongst other considerations.
7. Although not in a designated employment location, the appeal site is located within both the City Fringe Activity Area and the Brick Lane District Centre, which are deemed suitable locations for secondary office space. Alongside the policy protection offered by D.EMP3, and as part of a strategy to protect employment floorspace in the Borough, an Article 4 Direction was put in place in 2022 in parts of the Borough to prevent changes of use from commercial, business and service to dwellinghouses. There is a coherent strategy in place to protect employment floorspace in targeted parts of the Borough.
8. The appellant has advised that the office was vacant between 2019 and 2020 – although records of the marketing undertaken in 2019-2020 are not available – and that it was converted to residential use at the end of 2020 because a commercial tenant could not be found. The appellant acknowledges that there is conflict with Policy D.EMP3, but contends that the harm would be minimal given the size of the office. They also point to harm to noise and antisocial behaviour when the first floor was in office use, partly as a result of members of the public inadvertently accessing the upper residential floors of the building.
9. The appellant contends that office space is oversupplied in Tower Hamlets, pointing to Table 2 of the THLP, the London Borough of Tower Hamlets Employment Land Review dated March 2023 and the Tower Hamlets Monitoring Report 1 April 2020-31 March 2022, all of which show an excess supply of office floorspace. According to commercial data supplied by the appellant, flexible office supply and average desk rates dropped in 2024 in East London, whilst Savills reported a significant drop in investor interest in small office developments in the first half of 2024 in London, with a focus on newer, high quality offices as opposed to older, smaller units.
10. Policy D.EMP3 is clear in its intent of avoiding the loss of employment floorspace. The appeal site is located in an area where commercial uses are encouraged. The market signals identified by the appellant date from 2024 and there is no indication that such trends are necessarily long term. Whilst Council documents indicate there is a surplus of office floorspace overall in the Borough, this need not indicate that existing office cannot serve a valuable purpose even when, as in the current case, the floorspace involved is relatively small.

11. No evidence of marketing has been provided, in accordance with criterion (a) of part 2 of Policy D.EMP3, either during the period when the office was vacant in 2019-2020 or subsequently. In relation to criterion (b), the evidence that the office was unsuited to employment use is limited to nuisance suffered by residents on the upper floors, but no indication has been given that efforts were made to mitigate these impacts. Without evidence of marketing, I cannot be certain that there is no demand for the office floorspace; and convincing evidence has not been provided that the space is fundamentally unsuited to office use.
12. Consequently, the proposal would fail to protect the supply of employment floorspace and would conflict with Policy D.EMP3 of the THLP, the aims of which I have outlined above.

Living conditions

13. The proposal does not make provision for outdoor space for use by residents of the flat, and in this regard it is comparable with the flats on the upper floors of the building, which do not possess balconies. In long-established built up areas it is not always feasible to provide balconies, and indeed it may not always be desirable to do so, depending on the character of the building and its immediate surroundings. From my inspection of the site, I consider that it would be challenging to provide any kind of outdoor space.
14. The proposal is for a one bedroom flat, so it is unlikely that children would live in it. The appeal site is within walking distance of four parks which provide a range of different activities. Residents of the flat would be able to access these parks on foot, allowing them to lead healthy and active lifestyles, and in this respect they would enjoy a similar lifestyle to many other people living in the local area.
15. I therefore conclude that, as residents of the flat would have access to a choice of accessible offsite outdoor spaces, material considerations indicate that, notwithstanding the requirement of Policy D.H3 for a minimum of 5sqm of private outdoor space for a one bed flat, the living conditions of residents would not be harmed in this instance.

Cycle parking

16. The proposal includes a lockable bike store capable of accommodating two bikes, to be located at the rear of the building in Thrawl Street. To access the store, occupiers of the flat would need to walk a short distance along Brick Lane, through a covered alleyway and along Thrawl Street. The route is easily walkable, and although it involves the use of an alleyway, the alleyway is lit, and the area generally is busy and benefits from a night time economy, whilst Thrawl Street is a mainly residential road. I do not consider the route to be unduly difficult or unsafe.
17. I have noted the appeal decision supplied by the Council², but as the cycle storage solution proposed in that instance differed from that proposed here, I have afforded it limited weight.
18. I therefore conclude that the proposal would make appropriate provision for cycle storage, in accordance with Policy D.TR3 of the THLP, which requires priority to be given to space for cycle parking.

² PINS reference APP/E5900/W/22/3292534

Other Matters

19. The appeal site is located within Fournier Street and Brick Lane Conservation Area. Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 places a statutory duty on decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The significance of the Conservation Area derives from the architecturally and historically significant early Georgian buildings around Fournier Street, and the overlapping cultural legacy of three successive groups of immigrants who each made a unique contribution to Brick Lane.
20. The proposal involves no external changes to the building, with the only visible feature being a lockable cycle store, which would be a neutral feature in the street scene. Consequently, there would be no harm to the heritage asset, and the proposal would satisfy the test set by paragraph 215 of the National Planning Policy Framework as well as the statutory test.

Conclusion

21. The proposal would conflict with the development plan as a whole, and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

J Heppell

INSPECTOR