
Appeal Decision

Site visit made on 25 February 2026

by **H Whitfield BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 March 2026

Appeal Ref: APP/E5900/W/25/3376318

249-251 East India Dock Road, London E14 0EG

- 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 Amrud Gulam of Amrud Catering Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/24/01494.
The development proposed is the retention of the change of use of the premises from Class D1 to Class E (Commercial) pursuant to prior approval PA/17/02298, along with provision for a shisha smoking area at the rear.
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. I have used the description from the appellant's appeal form in the banner heading above as this reflects that used on the decision notice and more accurately describes the proposed development.
3. The application form indicates that the development is retrospective. During my site visit I observed that the front of house area was fitted with seating and a bar. However, the rear part of the building where the shisha smoking area is proposed had not been completed. Nevertheless, and for the avoidance of doubt, I have determined this appeal based on the submitted plans.
4. The evidence indicates that the wider building of which the appeal site is a part benefitted from deemed consent under Schedule 2, Part 4, Class D of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for a temporary change of use of the ground and basement floors from use class D1¹ to A1² (including internal subdivision) for a period of two years³ (the temporary change of use). The conditions of this Class require the site to revert to its previous lawful use at the end of the period of flexible use.
5. An enforcement notice was served⁴, dated 27th January 2017, which principally required the cessation of the unauthorised use of the building as a shisha lounge (sui generis use), the removal of associated fixtures and fittings and making good of any remedial works within one month after the notice took effect. The evidence indicates that the requirements of this notice have not been complied with and enforcement

¹ Use class D1 (Non-residential institutions, such as a place of worship), since replaced by use class F1 (learning and non-residential institutions)

² Use class A1 (Shops), since replaced by use class E (commercial, business and service)

³ Council Ref. PA/17/02298

⁴ Council Ref. ENF/17/00007

action is ongoing which appears to have resulted in the planning application which is now the subject of this appeal.

6. Considering the allegations of the enforcement notice, it is unclear from the evidence whether the temporary change of use was lawfully implemented. Nevertheless, it has since expired, and it is understood that the building has not reverted to its previous lawful use as a place of worship. No further consent for the change of use of the building has been obtained.
7. Reference is made in the evidence to the two retail units at the front of the building and a residential unit at first floor which the Council states do not benefit from planning permission. The appellant also refers to a lack of enforcement action taken by the council against these uses. However, as these areas are outside of the appeal site, they fall outside of the scope of this appeal. Moreover, it is not for me, under a Section 78 appeal against a refusal of planning permission, to determine whether these uses are lawful. It would also be open to the Council to consider enforcement action under Part VII of the Town and Country Planning Act 1990, independently to, and irrespective, of the outcome of this appeal. As such, I have determined the appeal based on the plans before me and the description of development sought by the appellant.

Main Issues

8. The main issues are the effect of the proposed development on:
 - the provision of community facilities in the local area; and
 - the living conditions of nearby residents, with particular regard to noise and fumes.

Reasons

Community facility

9. The appeal site relates to the rear of a mid-terraced building which is accessed via a pedestrian door off East India Dock Road and extends back to Follett Street, which contains service doors. The council states that the lawful use of the building is as a place of worship, which is a community facility.
10. The appellant contends that as the building has not been in use as a place of worship for many years and has undergone internal alterations rendering it unsuitable for community activities, its use as a community facility is not a realistic fallback position and its loss has not resulted in planning harm. However, the alterations to the building appear to relate to the alleged unauthorised uses and there is very little before me which explains why these would render the appeal site unsuitable for future community use. Moreover, the description of development proposes the change of use of the building from a D1 use (as a place of worship), which is a community facility, to Class E use as a café with an associated shisha smoking area, which is not a community facility, and I have considered the appeal on this basis.
11. Policy D.CF2 of the Tower Hamlets Local Plan 2031 (the THLP) seeks to protect and enhance the borough's existing community facilities. Part 1 of this policy states that existing community facilities must be retained unless it can be demonstrated that: a) there is no longer a need for the facility or an alternative community use within the local community, or b) a replacement facility of a similar nature that would better meet the needs of existing users is provided. Policy S1 of the London Plan (2021) similarly

seeks to protect existing social infrastructure, stating that redundant social infrastructure should be considered for full or partial use as other forms of social infrastructure before alternative developments are considered, unless this loss is part of a wider public service transformation plan.

12. The proposal does not appear to include any replacement or enhanced provision and accordingly, it seems that the appellant's case relies on there no longer being a need for the community facility. However, the information presented with this appeal is very limited. There is little information before me regarding, for example, the proximity of the appeal site to other places of worship or community facilities, and thus whether there is a need for such uses in the existing community. Nor is there any substantive evidence that any effort has been made to explore the appetite for alternative community uses within the building.
13. The appellant contends that the use of the building as a community facility is not realistic, however, this is not substantiated by any empirical evidence. Reference is also made to amendments to reduce the area of the shisha lounge, which would operate ancillary to the café. However, irrespective of the size of the shisha lounge, the proposal would result in the change of use and thus, the loss, of the appeal site as a community facility and there is no substantive information before me to demonstrate how the requirements of Policies D.CF2 and S1 would be met.
14. The 2017 enforcement notice did not explicitly require the reinstatement of the use of the building as a place of worship. However, in requiring the unauthorised use of the building as a shisha lounge to cease, it is implicit that the building would default back to its lawful use. Arguably it would not be necessary or reasonable for the enforcement notice to explicitly require the building to be put back into use as a community facility as this would fail to account for a scenario where the building stands unoccupied for any period. Even in this situation, the lawful use of the appeal site would remain as a place of worship and community facility. It is not clear why the enforcement notice only refers to the shisha lounge use. However, the scope of this appeal is confined to the appeal site, which excludes the other alleged unauthorised uses, and based on the evidence before me, it has not been demonstrated that a community facility use could not be viably reinstated within the appeal site portion of the building.
15. I note that the Council has previously refused permission⁵ for the capacity expansion and extension to the operating hours of the place of worship for reasons relating to the living conditions of neighbouring occupiers. However, I have very limited information before me relating to the circumstances of this case, which in any event, does not demonstrate that the use of the building as a community facility is unsuitable in principle.
16. I acknowledge that the building has not been providing an active service to the local community in recent years. However, this is in part due to the continued alleged unauthorised use of the building and a temporary change of use under the GPDO, which necessarily required reinstatement of the previous lawful use after a temporary period. As such, these intervening uses do not influence my conclusions. Based on the very limited evidence before me, I cannot be certain that an alternative community use could not be found for the premises and that there is no longer a community need for such facilities on the appeal site. Accordingly, I am not satisfied that the intentions of paragraph 98 of the National Planning Policy Framework (the Framework) to guard against the unnecessary loss of valued facilities have been met. The loss of the

⁵ Council Ref. PA/09/00161

appeal site as a community facility would erode the availability of such space and, thus, the range of facilities on offer to the community, reducing its ability to meet its day-to-day needs.

17. For the above reasons, I therefore conclude that the appeal scheme would have a harmful effect on the provision of community facilities in the local area. This conflicts with Policies S.CF1 and D.CF2 of the THLP and Policy S1 of the London Plan insofar as they seek to protect community facilities and social infrastructure, and to prevent the loss of community facilities other than in exceptional circumstances.

Living conditions

18. The appeal site is located within Chrisp Street Town Centre within an area on East India Dock Road that contains commercial frontages. The surrounding area is mostly mixed use in character, containing shops, cafés, takeaways, a mosque and other town centre uses, in addition to residential units which are predominately on the upper floors. Other residential properties also exist to the rear along Follett Street. No windows are present in the side elevations of the neighbouring buildings which directly adjoin the site. However, openings exist on the front and rear of the neighbouring buildings along East India Dock Road and Follett Street and on the closest elevations of the buildings on the corner of Lodore Street opposite the site.
19. During my site visit I observed that East India Dock Road had the character of a relatively busy town centre environment where noise associated with the comings and goings of patrons and traffic was frequent. In contrast, I observed relatively low activity along Follett Street, which had a more residential character. Nearby traffic noise was still audible along this street, however, there was generally a lower level of activity and noise to the rear. While my site visit can only represent a brief snapshot in time, there is nothing in the evidence to suggest that what I saw at the time was uncommon.
20. The lawful use of the appeal site is understood to be a place of worship. However, the evidence indicates that it has most recently been in use as a café with a shisha lounge. The crux of the Council's concerns in respect of this main issue appear to relate to the shisha smoking area which would be located to the rear of the building. The appellant contends that the area would cover a relatively small proportion of the building's overall floorspace, would contain low-level, capacity limited seating and the playing of amplified music would not be permitted. The area would be separated from the main café by a doorway and a 'fresh air roof opening' is shown on the proposed roof plan over the shisha area which is proposed to have a 'fresh air and natural roof-level ventilation' system.
21. The use of the shisha smoking area is likely to result in patrons remaining in the area smoking and conversing for a period of time. The by-product of shisha use is smoke and the hours of proposed use on the application form would mean that the usage would occur late in the evenings and at night, seven days a week. Notwithstanding the measures put forward by the appellant for the operation of this area, there is very little before me relating to the proposed ventilation system. It is unclear whether the roof opening would be fitted with a ventilation system or open to the elements, or whether the operation of this space would require the rear folding doors shown on the plans to be open when in use. Due to the proximity of the smoking area to neighbouring windows, there is the potential for surrounding occupiers to experience nuisance through noise and the travelling of shisha fumes and odours that are dispersed from the site, and the level of potential disturbance would be dependent upon these

variables. Such effects are also likely to be exacerbated, particularly in pleasant and hot weather when these residential occupiers have their windows open.

22. While the appellant has indicated a willingness to implement controls to encourage considerate use of the area, no noise or fume assessment has been undertaken which takes into account the implications of the proposed roof opening and there is very limited information relating to the proposed extraction system. Without this information, a robust assessment of the potential noise and emission impacts of the development is not possible, nor is it possible to determine whether such impacts could be adequately mitigated to preserve the living conditions of nearby occupiers. As this is central to the acceptability of the development, it would not be reasonable to leave this to be resolved through planning conditions alone. Though the appellant suggests that operating hours and maintenance of the ventilation system could be controlled by condition, it has not been demonstrated that noise or fumes generated over a lesser period would be at an acceptable level or whether any potential harmful noise or fume effects could be appropriately mitigated in this way.
23. I note that the lawful use of the site as a place of worship would have generated a degree of noise and disturbance from associated comings and goings. So too would the use of the site as a café as permitted under the temporary change of use. However, such uses are not directly comparable to a shisha smoking area which requires smoking in an unenclosed space, increasing the likelihood of noise and emissions spilling from the property. Moreover, while the building is located within a town centre environment, the general level of noise and disturbance at the rear of the site where the shisha area is proposed is comparatively lower than along East India Dock Road. Therefore, the mixed-use nature of the area does not alter my conclusions above.
24. For the above reasons, I therefore conclude that the appellant has failed to demonstrate that the development would not have an unacceptably harmful effect on the living conditions of nearby residents, with particular regard to noise and fumes. This conflicts with Policy D.DH8 of the THLP which seeks to protect, and where possible enhance, the amenity of existing buildings and their occupants.

Planning Balance and Conclusion

25. The appeal scheme would deliver economic and social benefits by supporting the vitality of the town centre, providing additional employment opportunities, consumer choice and contributing to the nighttime economy of the area. In accordance with paragraph 85 of the Framework, these benefits attract significant weight. However, given the modest scale of the development any associated social or economic benefits would be relatively limited and would not outweigh the harm I have identified as arising from the loss of the appeal site as a community facility and to the living conditions of nearby residents.
26. Therefore, for the reasons set out above, I conclude that the proposal conflicts with the development plan as a whole and the material considerations do not indicate that a decision should be made other than in accordance with it. Accordingly, the appeal should be dismissed.

H Whitfield

INSPECTOR