
Appeal Decision

Inquiry held on 12, 13, 14, 15, 19, 20 and 21 December 2017

Site visit made on 11 January 2018

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2018

Appeal Ref: APP/E5900/W/17/3167832

125-129 Wapping High Street, 13-15 Cinnamon Street, 14-16 Clegg Street, Wapping, London

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Rail for London and Wapping High Street Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/15/03561, dated 22 December 2015, was refused by notice dated 22 December 2016.
 - The development proposed is the partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated hard and soft landscaping works and the provision of cycle parking across all three sites. Site A would contain the majority of the units, with 27 flats; Site B would contain 10 and Site C, the 4 town houses. Amendments consist of the enlargement of the footpath along the eastern edge of Clegg Street (Site C) to 1.50m wide; Marketing Assessment Comparables and Market Assessment for the application sites; closing the walls between Site B and neighbouring residential buildings, Ross and Tasman Houses; and detailed articulation in proposed brick work added to north west elevation of Site A.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was amended prior to its determination by the Council. The description given above is, therefore, taken from decision notice since it more fully describes the amended scheme which was the subject of the Council's decision.
 3. At the Inquiry, the Council confirmed that it no longer wished to pursue its concern regarding the amount of daylight and sunlight reaching 10 and 12 Clave Street. I have framed the second main issue accordingly. Nevertheless, I recognise that the occupiers of these properties maintain objections and that other nearby occupiers have concerns which are not reflected in the Council's reasons for refusal.
 4. A signed and dated Planning Obligation has been submitted. Since the appeal is being dismissed for other substantive reasons, it is not necessary for me to consider the Obligation in detail. However, I have taken the affordable housing Obligation into account in the planning balance.
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Main Issues

5. The main issues are:

- the effect of the proposal on the character and appearance of the Wapping Wall Conservation Area;
- the effect of the proposal on the living conditions of the occupiers of Ross House with particular regard to the amount of daylight and sunlight reaching living room and bedroom windows;
- the effect of the proposed parking and servicing arrangements on highway and pedestrian safety and convenience.

Reasons

Character and Appearance

6. Sites A and C fall within the Wapping Wall Conservation Area (CA). Site B sits outside of the designated heritage asset, but within its setting. The appeal sites are also close to the Wapping Pierhead Conservation Area, although the Council has not presented substantive evidence of harm to the setting of that Area.
7. The statutory test at section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Paragraph 131 of the National Planning Policy Framework (the Framework) has similar aims, whilst paragraph 137 advises that new development within the setting of a heritage asset should enhance or better reveal its significance. Paragraph 138 requires the loss of a building or other element which makes positive contribution to a Conservation Area to be treated as substantial or less than substantial harm according to its relative significance and its contribution to the Area as a whole. Policy DM24(1) of the Council's Managing Development Document 2013 (MDD) requires development to be designed to the highest standard and to be sensitive to, and enhance, local character. Policies SP10(3) of the Council's Core Strategy 2010 (CS) and DM27 of the MDD require development to protect *and* enhance heritage assets including Conservation Areas. They, therefore, set more rigorous tests than the legislation or Framework.
8. The significance of the CA primarily lies in the architectural and historic interest of its industrial docklands past. As the Council's Conservation Area Character Appraisal and Management Guidelines (2009) (CAA) identifies, this can be seen in the imposing 19th century warehouses and wharves that line the river frontage. Behind these buildings, and also contributing to the special interest of the CA, is a network of often narrow and cobbled streets lined by further, occasionally large, warehouse buildings and more modest ancillary buildings. Whilst the CA as a whole also contains a variety of other features associated with the docklands, including bridges, pumps, locks and the like, as well as areas of open space, there are none in the immediate vicinity of the appeal sites.
9. Following the closure of the docks in the 1960s, mainly residential-led regeneration occurred under the auspices of the London Docklands Development Corporation (LDDC). This took the form of the re-use of existing buildings and new development which sought, with varying degrees of success, to emulate the

simple, robust forms of the warehouse buildings. Nevertheless, the character and appearance of the area retains a strong sense of its docklands history, albeit that the prevailing use is now residential.

10. The scale of development to the rear of the riverside warehouses varies. Although it includes substantial warehouse buildings such as the listed Prusom's Island Warehouse and Gun Wharves¹ and later four and five storey residential buildings (Falconet Court and Ross House/Tasman House), the appeal sites and a number of the immediately adjoining buildings are in the range of one to three storeys in height. Indeed, the CAA refers to the visual relief provided by the relatively low scale of buildings surrounding the vent shaft of the underground railway which sits within appeal Site A. Whether or not the author of the CAA intended this description to include the buildings on appeal sites B and C, in practice, their scale does provide a welcome contrast to the 'corridor' of large buildings on the south side of Wapping High Street. I also consider it relevant that, unlike many of the LDDC-era residential developments along Wapping High Street, the dwellings at 2-12 Clave Street and 18-32 Cinnamon Street are limited to three storeys. Similarly, the converted and extended Baltic Court is no more than three storeys high.
11. Therefore, notwithstanding that the large 19th century warehouses provide the most striking expression of the special interest of the CA, I consider that the range of building types and scales present also contributes positively to its significance.
12. It is common ground that the part of Site A fronting Wapping High Street makes a positive contribution to the significance of the CA. The Site C building is a part one, part two storey structure of utilitarian appearance. It dates from the 1920s and its simple form and siting on the back edge of the footpath is characteristic of the area. Nevertheless, the building has few distinguishing architectural features and has been much altered.
13. The Council accepts that the building is not worthy of statutory listing, but considers that it has value as a rare example of a surviving industrial building. There is documentary evidence to indicate that it was previously used as stables and it is common ground that there are no other former stables buildings in the CA. However, there is little indication of the stable use in the remaining fabric of the building. I understand that the Council's local list of heritage assets has not been comprehensively reviewed since 1973². Whilst some buildings have been added since that time, the building on Site C has not.
14. Consequently, I find that the siting, scale and form of the building contribute to the special interest of the CA, although its former use does little to enhance that contribution.
15. Site B accommodates a part single, part two storey building which also dates from the 1920s and sits on the back edge of the Cinnamon Street and Clegg Street footpaths. Its simple form, panelled brick elevations and plinth give the building a robust appearance reminiscent of the larger warehouses. Therefore, although the building is not within the CA, it contributes positively to the setting.

¹ Whilst this building is in the Wapping Pierhead Conservation Area, there is little to distinguish the townscape of the two designations.

² Inquiry Document (ID) 12

16. The buildings on Sites B and C and the walls enclosing the rear of Site A are congregated around the junction of Clegg Street, Clave Street and Cinnamon Street. Baltic Court is a short distance away and is somewhat larger in scale. These three buildings differ in appearance and I also recognise that much of the built form which previously existed, in particular to the east and west of Sites B and C, has been lost. However, the juxtaposition of the remaining buildings around narrow, cobbled streets is evocative of the range of building types which contribute to the significance of the CA. As such, their grouping adds value to the individual contributions made to the special interest of the heritage asset.
17. Nevertheless, the elements proposed for demolition comprise a small proportion of the Conservation Area as a whole (indeed Site B is outside of the designated Area) and are of lesser significance than many of the larger warehouses. Consequently, in accordance with Framework paragraph 138, I find that their demolition would lead to less than substantial harm to the heritage asset. Furthermore, that harm must be weighed in the overall consideration of whether the proposal would preserve or enhance the character and appearance of the CA³.
18. The proposal includes the restoration of the façade of Site A which faces Wapping High Street. The openings in the façade are currently boarded up and its unkempt state detracts from the character and appearance of the area. As well as introducing an active frontage, the proposal would make relatively small changes to the existing openings and restore the existing brickwork and copings. There is nothing to suggest that the changes to the existing openings would be unsympathetic. As such, I find that this element of the proposal would amount to a considerable enhancement of this part of the heritage asset.
19. The building proposed on the rear part of Site A would range from two to five storeys in height. The five storey element would abut the four storey Falconet Court and would be set back from the Wapping High Street and Cinnamon Street frontages. It would also be seen in the context of the large warehouses on the south side of Wapping High Street and Gun Wharf. However, unlike those buildings, it would be seen over and behind the lower buildings fronting Wapping High Street in views from a considerable length of that road. It would be the tallest building in the blocks defined by Wapping Lane and Clave Street, but would occupy an indeterminate position behind the road frontage. I heard from the appellant's heritage witness that there are instances of docklands warehouses located behind other buildings and which have no direct road frontage, although none in the CA were drawn to my attention.
20. I recognise that the form and materials of the new building are intended to be redolent of the existing warehouses. Nevertheless, the siting and height of the proposed five storey element would be at odds with the prevailing arrangement of built form. I have already noted the general reduction in the scale of buildings on and around the appeal sites. Whilst I am not persuaded that any increase whatsoever in scale over the existing buildings would be necessarily harmful, the proposed five storey element would represent an uncomfortably abrupt reversal of the pattern of the building heights in the immediate area, even having regard to the height of Falconet Court.
21. The appellant argues that the height of the building would signal the existence of the proposed courtyard at Site A. Although there is nothing to suggest that

³ Palmer v Herefordshire Council and Anr [2016] EWCA Civ 1061

- the courtyard, of itself, would be objectionable, nor would it be a highly characteristic feature whose presence deserves to be announced.
22. The Cinnamon Street elevation of the Site A building would be three storeys high to the east of the railway vent shaft and four storeys to the west. The parapet of the western part of the building would be significantly higher than the parapet of the adjoining Falconet Court, despite that building also having four storeys. This part of the building would, therefore, result in a significant increase in scale compared with the existing situation or the position prior to the 2008 demolition of the buildings which previously adjoined the vent shaft⁴. Consequently, the visual relief referred to in the CAA, and the range of building scales which I have found contributes to the significance of the CA, would be undermined.
 23. Unease has also been expressed regarding the blank wall which would enclose the vent shaft. However, blank walls are not uncommon in the CA and, to my mind, this is of less concern than the size of the proposed adjoining buildings. The appellant has also suggested that public art could be used to enliven this part of the building and mark the presence of the vent shaft.
 24. I recognise that the Cinnamon Street elevation has been articulated with a grid pattern of recesses and windows which reflects something of Falconet Court and also the 19th warehouses in the area. However, neither this nor the use of public art would overcome my concern regarding the overall scale of the building fronting Cinnamon Street.
 25. The building proposed for Site B would be five storeys in height where it adjoins Ross House and Tasman House, stepping down to two storeys on its Clegg Street frontage. Whilst Ross House and Tasman House also have five storeys, the eaves level of the new building would be around half a storey taller than those buildings. I recognise that the massing of the building, including the stepped elevations, seeks to address its corner location and the differing orientations and scales of adjoining buildings. Nevertheless, it results in a complex arrangement that is out of keeping with the simple robust forms of the warehouses and other buildings which contribute to the significance of the CA.
 26. The proposal for Site B includes an area of open space at the junction of Clegg Street and Cinnamon Street. Although this feature would not be characteristic of docklands industrial architecture, I am mindful that there are established green areas in front of Ross House and adjoining Tasman House. In any event, given its modest size, this space would not overcome my concerns regarding the scale and form of the new building on Site B.
 27. The building on Site C would comprise four, three storey townhouses. The top storey would be set back from the lower floors and a balcony at that level would project forward of the main building line. This arrangement would be seen in views from the south along Clave Street, giving the end of the building an awkward, irregular profile. The rear elevation of the building would extend forward of the front of the adjoining dwellings at 18-32 Cinnamon Street. It would, therefore, be very apparent in views from the east along Cinnamon Street. Although the articulation of the staircase and use of 'blind windows' would provide some visual relief, at three storeys the elevation would still be large, prominent and, unmistakably, the rear of the building. Taken together

⁴ As shown in the photograph at ID 4

with the unsatisfactory profile of the end elevation, I consider that these parts of the building would prevent it from assimilating into the streetscene.

28. I understand that the projecting balcony arrangement arose from an amendment to the scheme which set the building back in order to increase the width of the Clegg Street footpath. I deal below with the effect of the widened footpath on highway and pedestrian safety. Even in an area where footpaths tend to be narrow, the section adjoining Site C is particularly so. Therefore, widening it to 1.5m would not result in a disproportionate overall width. The balcony would overhang the widened footpath by less than 1m. Given its height, two storeys above ground level, and the modest extent of the projection in relation to the breadth of the widened street, I consider that the balcony would be not have an overbearing effect on the streetscene.
29. I have found that the restoration of the Wapping High Street frontage would be a considerable enhancement, although it would affect a fairly small part of the CA. I also recognise that the materials and detailing of the new buildings would be of high quality and would be appropriate to the CA. Conversely, I have found that the proposed buildings on Sites A and C would not preserve or enhance the character or appearance of the CA and that the five storey element of the building on Site A in particular would be harmful. The building on Site B would detract from the setting of the heritage asset. Given these concerns I am not persuaded that their grouping around the Cinnamon Street, Clegg Street, Clegg Street junction to form a gateway to the CA would be an enhancement of the area.
30. It follows that, overall, the proposal would not overcome the harm caused by the demolition of the existing buildings on the appeal sites. The proposal would, therefore, lead to less than substantial harm to the significance of the CA. As such, it would not meet the statutory test and would conflict with Framework paragraphs 131, 137 and 138 as well as the more rigorous test in CS Policy SP10(3) and MDD Policy DM27. Since the proposal would neither preserve nor enhance the heritage asset, it is not necessary to consider the implications of difference between the tests required in those policies and the Framework. For the reasons outlined above, the proposal would also conflict with MDD Policy DM24(1). Framework paragraph 134 requires the harm to the heritage asset to be balanced against the public benefits of the proposal. I consider this in the planning balance below.

Living Conditions

31. Policies SP10(4) of the CS and DM25 of the MDD require development to protect the amenity of surrounding occupiers including by, among other things, ensuring no unacceptable material deterioration of sunlight and daylight conditions. The appellant has provided an assessment of the proposal using the Building Research Establishment's Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE guide)⁵. The Council does not take issue with the calculated daylight and sunlight levels for adjoining residential properties set out in the assessment. It is also common ground between the main parties that the proposal would not achieve the Vertical Sky Component

⁵ Point 2 Daylight and Sunlight Report dated December 2015 reproduced at Appendix AH3 of Mr Harris's proof.

(VSC) and/or No Sky Line (NSL) target values⁶ for daylighting recommended in the BRE in respect of 14 windows in Ross House. These windows serve either living rooms or bedrooms and it was agreed that, given the flats in Ross House are relatively small, the daylight level in the bedrooms is more significant to occupiers than it may be in larger properties. I saw on the site visit how the bedrooms in one of the affected flats were well used. The reductions in VSC range from just over 20% to almost 31% with retained values of between 25.35% and 14.73%. Four of the affected windows would experience NSL reductions of more than 30% and four others more than 40%. The proposal would also lead to reduced sunlight levels for some nearby properties, but would not infringe the BRE guide recommendations in this regard.

32. The BRE guide advises that the numerical values for VSC and NSL should be interpreted flexibly and that greater reductions in daylight and sunlight than those recommended may be acceptable in certain urban situations. The Mayor for London's Housing Supplementary Planning Guidance (SPG) also recognises that greater reductions can be acceptable in town centres, and on sustainably located, larger, high density sites in order to optimise housing capacity. It suggests that consideration is given to the standards experienced in comparable housing typologies. Furthermore, the Council has granted planning permissions for other residential developments which would not comply with the BRE guide target values. The crux of the dispute between the main parties, therefore, is the magnitude of the reduction that would be acceptable in the case of the appeal proposal.
33. The appellant has reviewed the daylight effects of a number of other proposed developments in Tower Hamlets and elsewhere, as well as the daylight levels experienced by windows in other properties in the vicinity of the appeal sites. Based on these comparators, the appellant's daylight witness considers that a retained VSC of 17% would be acceptable. Support for this figure is also drawn from section 2.3 of the BRE guide. However, that section is concerned with ensuring that future development land is not adversely affected by a proposed development and involves methods of assessment which have not been applied to the appeal proposal. Therefore I give that consideration little weight. The Council's witness considers a figure of 20-22%⁷ would be reasonable based his experience dealing with daylight assessment in urban locations.
34. As requested by the parties, I visited two of the proposed development sites in Tower Hamlets put forward by the appellant. The Cambridge Heath Road site is on a busy road at an 'edge of centre' location. Whilst the heights of nearby buildings range from two to six storeys, they are laid out in near continuous blocks along main roads. As such, I consider that the setting of this development is a considerably more intensely urban location than the context of the appeal sites. The Royal Mint Street site is within the London Plan City Fringe Opportunity Area and Central Activities Zone. The location is characterised by fairly large scale commercial buildings and the site is bounded on one side by an elevated railway line. The proposal is for a mixed use development including more than 350 residential units in buildings of up to 15 storeys. The setting and form of development proposed is, therefore,

⁶ The BRE guide says that, if the VSC for a window affected by new development falls below 27% or 0.8 of its former value (that is a reduction of up to 20%), occupants will notice the reduction in daylight. The NSL target is 0.8 of its former value (that is a reduction of up to 20%).

⁷ This is the range set out in Mr Harris's proof. The appellant's closing submissions indicate that he used a range of 22-23% when giving evidence.

significantly different from the appeal sites. Consequently, I am not persuaded that either of these sites is directly comparable with the appeal sites for the purposes of assessing the level of daylight reduction which may be acceptable.

35. The South Quay scheme includes almost 400 residential units in a 56 storey block on a strategic development site within Tower Hamlets Activity Area and the Isle of Dogs Opportunity Area. The scale and setting of this proposal is, therefore, markedly different from the appeal sites. Moreover, it is apparent from the officer's report that the Council was concerned about the daylight and sunlight impacts of the proposal, but weighed them against its public benefits. I undertake this exercise below.
36. The Castlewood House site is located off of Tottenham Court Road within the London Borough of Camden. This is a high density, central London location where, I understand, the Council's approach to the assessment of daylight and sunlight is different from Tower Hamlets and many other authorities. Whilst the magnitude of VSC/NSL reductions may be similar to the appeal site, I consider that the setting of the site, considered against the factors identified in the SPG, is materially different.
37. The appellant has also drawn my attention to a number of windows in buildings close to the appeal site where existing VSC values are considerably less than 27%, some being in single figures. Nevertheless, it is also apparent from the appellant's daylight report that numerous windows in the area experience VSC values of between 20% and 37%. Certainly such values are typical of many of the windows of the properties immediately adjoining the appeal sites, including living room and bedroom windows in Ross House and Tasman House and windows serving unspecified room types 18-32 Cinnamon Street and 2-12 Clave Street.
38. It seems to me that these values are more consistent with the nature of the area. Whilst it is sustainably located, it is not central. It is not designated for strategic development and, as outlined in the first main issue, the scale of development, although it varies somewhat, is relatively modest in the main. Consequently, I consider that applying a retained VSC value of 17% would not be appropriate in this case. It would result in levels of daylight lower than occupiers of residential properties in an area such as this could reasonably expect. I am inclined to think that a figure 20% or above would be acceptable. Applying this standard would make five of the 14 windows affected compliant with regard to retained VSC. However, they would still experience reductions in VSC of more than 20% and, in all but one case, the reductions in NSL would not be BRE guide compliant. These windows would have retained NSL values of 50% or more which the appellant considers would be good. However, based on my conclusions regarding the character of the area and the level of reductions in VSC and NSL experienced, I am not persuaded that that consideration is enough to make the daylight impact acceptable.
39. Three of the affected windows at Ross House are located below an existing balcony. The BRE guide acknowledges that such windows may experience a disproportionate reduction in VSC as a result of new development because the balcony cuts out the top part of the sky. It, therefore, recommends carrying out the VSC tests with and without the balcony. In this case the affected windows would pass the VSC and NSL tests in the 'without balcony' scenario, which suggests that the balcony is the main factor in the loss of light. Notwithstanding

this consideration, I conclude that the proposal would result in an unacceptable loss of daylight for a significant number of occupiers of Ross House. That they would not be 'plunged into darkness' is not an adequate mitigating factor.

40. The appellant argues that the proposal would improve the view for occupiers of Ross House. Whilst I have no reason to question the quality of materials and architectural design of the building proposed on Site A, I have already expressed concerns regarding its scale. I saw on the site visit that the outlook from the upper floor windows of Ross House above the existing single storey buildings on Site A is, in general, fairly open, if not particularly attractive. The exception is the windows closest to Site B where the projecting flank wall impinges. The introduction of a new, mainly four storey, building on Site A opposite Ross House would take up much of the direct and oblique views from these windows. It would, therefore have an enclosing effect on the outlook of occupiers. The new building on Site B would project less than the existing flank wall, but would be taller. As such, it would not lead to a significant improvement in the outlook from windows close to it. Consequently, I find that the proposal would, if anything, result in a deterioration, rather than improvement, in the outlook of occupiers of Ross House.
41. The appellant has also referred to the trees in front of Ross House. Although they may affect the light reaching the windows when in full leaf, unlike a building they do present a solid barrier. Light may filter round and through the trees. Moreover, the BRE guide advises that trees should not be taken into account. The use of net curtains in the Ross House windows is matter of personal preference for occupiers. Therefore, I give little weight to either of these considerations.
42. As such, I find that the proposal would have a harmful effect on the living conditions of the occupiers of Ross House with particular regard to the amount of daylight reaching living room and bedroom windows. As such, it would conflict with CS Policy SP10(3) and MDD Policy DM25.

Highway Safety and Convenience

43. The proposal determined by the Council does not provide for any on-site car parking or servicing. There is no dispute that the appeal sites are sustainably located; they also sit within a controlled parking zone (CPZ C4). Policy SP09(4) of the CS supports car-free housing in areas with good public transport provision. As such, the Council does not object in principal to the absence of on-site parking for future occupiers, subject to provision being made for Blue Badge holders. However, it is concerned that there is insufficient capacity in the area to accommodate servicing and delivery vehicles and parking for visitors to the proposed dwellings. Following considerable discussion at the Inquiry, there was a measure of agreement that these activities would generate in the region of 34 trips in total per day.
44. Both parties produced parking surveys of the roads in the area which, although using different methodologies⁸, show a broadly consistent picture. There is a high level of parking demand in Clave Street and Clegg Street during week days and weekday night-times, while the appellant's survey suggests that there is more spare capacity at weekends. In Cinnamon Street there is slightly more capacity, although the pattern over the week is similar. There also appears to

⁸ The appellant used a 48hour video survey, whereas the appellant used a 'Lambeth method' parking beat survey

be somewhat greater capacity in Wapping High Street and Wapping Dock Street, albeit that the appellant's survey area extends east of the Wapping High Street junction with Hilliard's Court. Due to the distance from the appeal sites, visiting drivers are less likely to use spaces along this section of road. The appellant's video survey also revealed short duration stopping on double yellow lines and loading/deliveries on single yellow lines, although the latter may be permissible provided that it takes place outside of restricted times.

45. Traffic speeds and volumes along Cinnamon Street, Clave Street and Clegg Street are low. This, combined with the narrow footpaths in the area, leads to pedestrians making use of the carriageway. Traffic speeds and volumes along Wapping High Street are higher, although well within the capacity of the road.
46. Overall, I gained the impression that the area experiences a high level of activity, with some competition for parking and delivery spaces. However, there is no substantive evidence to show that those conditions have led to highway or pedestrian safety problems. The video survey and evidence from local residents point to cases of vehicles stopping adjacent to parked vehicles and blocking the road. However, these appear to be brief incidents and I am not persuaded that they demonstrate that drivers or pedestrians in the area experience regular or sustained inconvenience. The Council also points to the high ratio of issued parking permits to available spaces in CPZ C4. However, having regard to the findings above, I consider that, of itself, this is not indicative of highway safety or convenience problems in the vicinity of the appeal sites.
47. The appellant has suggested that a new on street loading bay could be created on Cinnamon Street adjacent to Site B. This would reduce the width of the adjoining carriageway to between 3.2m and 3.4m which is less than the minimum width of 3.7m for fire brigade access recommended in Manual for Streets (MfS) and London Fire Brigade's document GEN29. However, the advice from the Fire Brigade (ID19) confirms that its document is guidance only and that, provided that any vehicle in the loading bay was moved in the event of an incident, brigade access would be unaffected. Manual for Streets also advises that the minimum access width could be reduced to 2.75m over short distances provided that the pump appliance can get to within 45m of dwelling entrances. As an alternative, the appellant has suggested that the loading bay and adjoining footpath could be moved 500mm northwards to give the adjoining carriageway a clear width of 3.7m. Whilst this would impinge on Site B, there is nothing to suggest that it would materially alter the submitted scheme. Had I been minded to allow the appeal, this arrangement could have been secured using an appropriately worded condition. Consequently, I consider that the requirement for fire brigade access would not prevent the creation of a loading bay adjacent to Site B.
48. The Council is also concerned that a vehicle parked in the proposed loading bay would obstruct the visibility of drivers exiting Clegg Street. It is common ground that the 85th percentile wet weather speed on this part of Cinnamon Street is 14mph. MfS advises a stopping site distance of 17m (adjusted for bonnet length) in these circumstances, which is achievable with the loading bay in its proposed position. However, the Council points to the note attached to MfS table 7.1 which says that additional features will be needed to achieve low speeds. Whilst that would be necessary in the case of a newly designed road, in this case, the actual 85th percentile speed is known and there would be nothing to be gained (in terms of the safety of the proposed loading bay) by introducing

an additional feature. The Council's highways witness also suggested that the cobbled road surface has low skid resistance. However, there is nothing to substantiate this point. Consequently, I find that the creation of the proposed loading bay would not pose a risk to highway safety.

49. The new bay would be well located to serve the proposed development on Sites B and C and the element of Site A accessed from Cinnamon Street. This amounts to the largest part of the scheme. I have not been made aware of a practical means of restricting the use of the new loading bay to vehicles servicing and delivering to the proposed development. However, to my mind, that should not count against the proposal. The loading bay would add to the overall capacity of the area to accommodate servicing and delivery vehicles and thereby ease pressure on existing facilities. Even allowing for usage in this way, given the low number of light and heavy goods vehicle trips generated by the proposal (a total of 10 per day based on table 3.3 of Mr Wisher's proof), it seems likely that there would be capacity to accommodate them either at the new bay or elsewhere in the area.
50. The new bay would not be conveniently located for vehicles servicing or delivering to the proposed retail unit or the small number of residential units accessed from Wapping High Street. Nevertheless, those elements of the scheme would generate a low volume of trips and a condition could be used to prevent deliveries to the retail unit during peak hours. As well as avoiding the busiest times of the day, delivery vehicles would be able to use nearby single yellow line spaces.
51. In response to the need to provide car parking for Blue Badge holders, the appellant also proposes the creation of two additional car parking spaces in Clegg Street and one adjacent to 1 and 2 Cinnamon Street. The Council's highways witness accepted that three spaces would be sufficient to serve the demand generated by the development.
52. The Clegg Street spaces would be adjacent to the Hilliard's Court footpath. This footpath provides access a primary school and is well used. However, the main 'desire lines' from this junction appear to be north and south along the east side of Clegg Street. I am not aware of a strong draw leading to pedestrians coming from the Hilliard's Court footpath wishing to cross immediately to the west side of the road. The proposal would improve pedestrian access to the south by widening the footpath adjoining Site C. As such, I consider that the two spaces proposed on Clegg Street would not pose a risk to pedestrian safety.
53. There is nothing to suggest that the Cinnamon Street space would pose a safety risk. It would not be well located to serve the needs of Blue Badge holders occupying the proposed dwellings. However, the proposal is to create additional spaces, not that they would necessarily be designated as disabled spaces. This additional capacity would allow other existing spaces, closer to the proposed dwellings, to be re-assigned as disabled spaces. I consider that, in this way, the proposed car parking spaces would serve their intended purpose. The necessary arrangements could be secured through a Planning Obligation.
54. The Council also raised the issue that affordable housing tenants moving within Tower Hamlets are entitled to transfer their parking permit, depending on the size of their existing and proposed dwellings⁹. However, given that this would

⁹ Policy extract at ID 7.

apply to a limited number of people on the long waiting list of potential occupiers of the proposed affordable housing, that the Council would have discretion over which tenants move into the units, and that potential tenants would have the choice to give up their parking permits if they wished to move to the site, I consider that this issue need not lead to additional parking demand.

55. Taking all of the above matters into consideration, I find that there would be sufficient capacity in the area to accommodate servicing and delivery vehicles and parking for visitors to the proposed dwellings. As such, the proposal would not have a detrimental effect on highway and pedestrian safety or convenience. It would, therefore comply with CS Policy SP09 and MDD Policy DM20 which, among other things, require new development to be properly integrated with the transport network and to have no adverse impact on the safety and capacity of the road network. It would also accord with Framework paragraph 35 insofar as it requires development to accommodate the efficient delivery of goods and supplies and create safe layouts which minimise conflicts between traffic and cyclists or pedestrians.
56. Having reached this conclusion, there is no need for me to consider the suggestion that an on-site servicing area could be created by re-configuring part of Site A (as shown on ID18).

Planning Balance and Conclusion

57. Considered in the round, the proposal would not preserve or enhance the character and appearance of the CA or its setting. I am required to give considerable importance and weight to this matter. I have also found that the proposal would have a harmful effect on the living conditions of nearby occupiers. Whilst I have also found that it would not lead to a deterioration in highway or pedestrian safety and convenience, the absence of further harm is not a positive point in favour of the proposal.
58. It is common ground that there is a need for more housing throughout the country and that the need is particularly pressing in London. The policies of the Framework and the London Plan make that clear. Tower Hamlets is expected to deliver a significant proportion of London's housing target and that target has risen since its CS was adopted. The London Plan annual monitoring target for the Borough is 3931 units. Therefore, although it is not claimed that the 'tilted balance' under the fourth bullet/first indent of Framework paragraph 14 should be applied, I give significant weight to the need to provide more housing. Additionally, there is a substantial need for affordable housing. I heard from Cllr Jones that the Council has a waiting list of 20,000.
59. The appeal proposal would deliver 41 new dwellings, of which 14 would be affordable. The Council accepts that this number of affordable units meets the CS and MDD policy requirements to maximise the amount of affordable housing provided. It could be secured through a Planning Obligation. Nevertheless, the appeal proposal would make a relatively small contribution to the housing needs of the Borough as a whole compared with, for example, the South Quay Plaza and Royal Mint schemes. Moreover, the Council accepts that the appeal sites have the potential to contribute to the housing needs of the area, albeit that considerably fewer than the 41 units currently proposed would be likely to be delivered. These considerations limit the weight I can attach to the market and affordable housing benefits of the proposal.

60. Furthermore, notwithstanding that the CS identifies the Wapping ward as a high growth area in the period 2015-2020, it is a low growth area for the plan period as a whole. Significantly, the appeal sites are not in a location which has been designated for substantial development. Rather, the CA designation indicates the sensitivity of the area as a receptor for development. That said, there is nothing in the Council's position or my assessment which precludes the appeal sites from delivering new housing in principle. The appellant has sought to demonstrate that the conversion of the existing buildings on Sites B and C would yield a small number of units and that it would be necessary to remove a number of units from Site A in order to reduce its daylight impact on Ross House. Neither of these proposals is before me for determination and neither has been worked up into a fully resolved scheme.
61. The sites are previously developed land in a sustainable location; this adds to the benefits of the proposal. I also recognise that there would be economic benefits through construction activity, the creation of the retail unit and local expenditure by future occupiers. I have already referred to the benefit of widening the Clegg Street footpath.
62. The appellant also argues that the proposal would have social and environmental benefits by regenerating an unsightly and derelict area, reduce the opportunity for anti-social behaviour and remove the possibility of Sites B and C being re-used for noisy or polluting industrial uses. I have already concluded that the current proposal would be harmful to the character and appearance of the area, but that the sites have the potential for development in principle. Such development could have the social and environmental benefits identified by the appellant. Moreover, I heard from local residents that the former use of Sites B and C for industrial purposes did not create harmful noise or nuisance. In any event, other powers exist to deal with noise or pollution.
63. Taking all of the above matters into consideration in applying the test at Framework paragraph 134, I find that the less than substantial harm to the CA would not be outweighed by the public benefits of the proposal. The harm to the living conditions of nearby occupiers adds to the weight against the proposal. As such, it would not amount to sustainable development.
64. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.
65. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR

Appearances

FOR THE COUNCIL

James Burton of Counsel, instructed by the Council's Solicitor

He called

Ignus Froneman B Arch Stud
ACHA IHBC Director, Heritage Collective

Neil Wisher BSc(Hons) CEng
MICE MCIHT Director, WYG Environment, Planning and Transport

Lance Harris MRICS Director, Anstey Horne and Co Ltd

Richard Humphreys BSc DipTP
Dip TD Principal Planner, LB Tower Hamlets

FOR THE APPELLANT

Andrew Tabachnik of Queen's Counsel, instructed by Alex Woolcott
of Winckworth Sherwood Solicitors

He called

Liam Dunford BSc(Hons)
MScSurv FRGS Partner, Point 2 Surveyors

Dr Chris Miele IHBC MRTPI Senior Partner, Montagu Evans LLP

Gareth Watkins BA(Hons)
DipArch(Hons) ARB ARIBA Director, Darling Associates

Andrew Beard BSc(Hons)
MCIHT Principal Transport Planner, AECOM

Chris Goddard BA(Hons) BPL
MRTPI MRICS Director, DP9 Planning Consultants

INTERESTED PERSONS

Ian Masterson 12 Clave Street

David Bell 8 Clave Street

Amanda Day Turk's Head Charity

Kit Chan 22 Cinnamon Street

Angela Orphanou 7 Tasman House

Natalia Tari	10 Clave Street
Cllr Denise Jones	LB Tower Hamlets, St Katharine's and Wapping ward
David Matthews/Joann Condon	5 Ross House
Sasha Gebler	Architect and resident of Baltic Court

Inquiry Documents

Submitted at the Inquiry

1. Corrected plan from Appendix E Annex I of Mr Beard's proof
2. Council's opening statement
3. Missing and corrected drawings from Mr Dunford's proof
4. Enlarged version of photograph 2 from Mr Wisher's proof
5. Exchange of emails dated 15 October 2014 regarding viewpoints
6. Decision notice, committee report, highway comments and discharge of condition 20 for application ref PA/12/00051 - 136-140 Wapping High Street
7. Extract from LB Tower Hamlets advice on parking permits for residents of car-free developments
8. Extract from Manual for Streets 2
9. Turk's Head Charity supporting documents
10. Statement by Councillor Dockerill
11. Statement by Councillor Jones
12. Review of Locally Listed Buildings 2 April 2014
13. LB Tower Hamlets Transport advice on the appealed application
14. Exchange of emails dated 18 August 2016 regarding servicing and disabled parking spaces
15. Point 2 Surveyors drawings showing potential amendments in response to daylight concerns
16. Draft Planning Agreement
17. Draft suggested conditions
18. Plan showing potential off-site loading bay
19. Emails dated 20 December 2017 regarding fire tender access
20. Drawing showing a revised position for the proposed loading bay
21. Aerial photograph omitted from Appendix H of Mr Wisher's proof
22. Revised draft suggested conditions
23. Revised draft Planning Agreement
24. Community Infrastructure Levy compliance schedule

Submitted after the Inquiry

25. Council's closing statement
26. Appellant's closing statement
27. Final version of suggested conditions
28. Signed Planning Agreement dated 12 January 2018