



Appeal Decision

Inquiry Opened on 6 November 2018

Site visit made on 14 November 2018

by **C J Ball** DArch DCons RIBA IHBC

an Inspector appointed by the Secretary of State

Decision date: 17 December 2018

Appeal Ref: APP/E5900/W/17/3191757

Enterprise House, 21 Buckle Street, London E1 8NN

- 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 OCM Luxembourg Buckle Street Apart-Hotel SARL against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/16/03552 dated 2 December 2016, was refused by notice dated 15 November 2018.
 - The development proposed is the demolition and redevelopment of an office building to create an apart-hotel (Use Class C1) with A3 use at ground floor and workspace (Use Class B1) at ground floor and mezzanine level.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing office building and the erection of a 13 storey building (plus enclosed roof top level plant storey) rising to 56.32m (AOD) containing 103 unit aparthotel (C1 Use) with B1 Use Class office workspace at ground and mezzanine level with an ancillary café (A3 Use Class) and hotel reception space at ground floor, together with ancillary facilities, waste storage and associated cycle parking store at Enterprise House, 21 Buckle Street, London E1 8NN in accordance with the terms of the application Ref PA/16/03552, dated 2 December 2016, subject to the conditions set out in Annex A.

Preliminary matters

2. The inquiry sat for 6 days on 6-9 and 13-14 November 2018 and I made an accompanied visit to the site and its surroundings on 14 November, including viewing several residences at 55-57 Alie Street and Goldpence Apartments.
3. The Council amended the description of the proposed development to *Demolition of existing office building and erection of a 13 storey building (plus enclosed roof top level plant storey) rising to 56.32m (AOD) containing 103 unit aparthotel (C1 Use) with B1 Use Class office workspace at ground and mezzanine level with an ancillary café (A3 Use Class) and hotel reception space at ground floor, together with ancillary facilities, waste storage and associated cycle parking store.* Since this more closely describes the proposal I have adopted this description for the purposes of the appeal.
4. The application was refused for 4 reasons. At an early stage in the appeal process the Council concluded that it could not defend the 3rd reason for refusal relating to the economic impact of short stay accommodation. The objection was withdrawn and I have therefore taken no account of this matter.

Agreed matters

5. Before the inquiry the parties submitted a statement of common ground. The statement was updated during the inquiry to reflect ongoing discussions and agreement between the parties. It describes the site and surroundings and identifies the heritage assets affected by the proposal. It sets out transport and accessibility considerations, noting the PTAL rating of 6(b) (Excellent). The statement gives the planning history of the site and sets out details of neighbouring and other relevant planning permissions. It lists the relevant development plan policies and other material considerations and provides a list of core documents.
6. The statement confirms agreement that the identified amenity impacts relate to daylight and sunlight, loss of outlook and an undue sense of enclosure, indicating the buildings affected in each respect. It helpfully summarises the matters not agreed. The statement confirms that heads of terms of a s106 Agreement have been agreed and sets out the financial and non-financial obligations, together with CIL contributions. A list of agreed conditions is attached.

Planning Obligation

7. At the inquiry the parties submitted a draft Agreement as a planning obligation under s106 of the Act. The Council confirmed that the provisions of the Agreement would meet the concerns outlined in the 4th reason for refusal, which was therefore not pursued. The Agreement was discussed in a discrete session at the inquiry and a certified copy of the executed deed was provided before I closed the inquiry.

Main issues

8. Taking all this into account, the main issues for consideration are:
 - The impact on the living conditions of the occupiers of neighbouring residential properties;
 - The effect of the proposal on the character and appearance of the local townscape;
 - The effect of the development on the significance of designated heritage assets; and
 - Whether, taking these factors together, the proposal would result in an unacceptable overdevelopment of the site.

Policy background

9. The local development plan consists of The London Plan, adopted in 2016 (LP) and the Tower Hamlets Local Plan, consisting of the Core Strategy 2025, adopted in 2010 (CS), the Tower Hamlets Managing Development Document (MDD) and the Adopted Policies Map, both adopted in 2013.
10. Following withdrawal of the objections relating to short stay accommodation, the development plan policies of particular relevance are now LP Policies 7.4 (Local Character), 7.5 (Public Realm), 7.6 (Architecture), 7.7 (Location and Design of Tall and Large Buildings) and 7.8 (Heritage Assets and Archaeology); CS Policies SP10 (Creating distinct and durable places) and SP12 (Delivering

Placemaking); and MDD Policies DM0 (Delivering sustainable development), DM23 (Streets and the public realm), DM24 (Place-sensitive design), DM25 (Amenity), DM26 (Building heights) and DM27 (Heritage and the historic environment).

11. National policy objectives are set out in the National Planning Policy Framework and the accompanying Planning Policy Guidance. A key material consideration is the Mayor's 'City Fringe Opportunity Area Planning Framework' (OAPF), adopted in December 2015. Other material considerations include the Council's Aldgate Masterplan SPG; Tall Buildings – Historic England Advice Note 4 (2015); and the BRE Guide 'Site layout planning for daylight and sunlight: a guide to good practice' (2011); I shall also take note of the detailed pre-application discussions, following dismissal of an earlier scheme, which led to the officers' recommendation of approval.

Reasons

12. The existing building on the site in Buckle Street, the 5-storey Enterprise House, lies at the centre of a distinct grouping of buildings around a small courtyard. They include, to the west and turning the corner onto Leman Street, the adjoining 7-storey City Reach office/apartment block; beyond that, at 3-4 storeys, a range of listed buildings: at 19A Leman Street the former Dispensary, now in use as a bar/restaurant; around the corner to the south, on Alie Street, the Church of St George, whose former graveyard now in part forms the small enclosed courtyard; the adjoining former St George's German and English Schools; and within the courtyard, the former St George's German and English Infants' School. The schools were converted to residential accommodation in the late 1990s. To the east, partly separated from the site by a narrow cul-de-sac service road, lies Altitude, a modern 28-storey residential block. This has retail uses at ground floor and the lower 7 storeys, with a separate entrance, are known as Goldpence Apartments, social housing in a variety of tenures.
13. The site lies within the City Fringe Opportunity Area and London's Central Activities Zone, an area designated for substantial growth. The Aldgate Masterplan identifies this area as providing opportunities for change and sustainable regeneration, arising from a cluster of major development sites. To the north of the site is Aldgate Place, where comprehensive redevelopment has resulted in the recent completion of a number of tall buildings with others still in construction. Just opposite the site is the 22 storey residential Blakeney Tower, with the 10 storey Indigo Hotel adjacent. Other blocks range from 7 to 26 storeys. To the west, on Leman Street, is the 23 storey Leman Locke, an apart-hotel owned and operated by the appellants. To the south, on Alie Street, is the Goodmans Fields development of 7-10 storey podium blocks and 19-23 storey tower blocks. While the group of listed buildings provides something of a contrast in scale, the site is thus set within a recently established context characterised by tall buildings, high density and close proximity.

The impact on the living conditions of the occupiers of neighbouring residential properties

14. The Council's concerns in this regard relate to a loss of sunlight and daylight, a loss of outlook and an increased sense of enclosure for the residents of a number of apartments in Altitude/Goldpence Apartments, Blakeney Tower and 55-57 Alie Street, including the open space between Blakeney Tower and the Indigo Hotel.

Sunlight and daylight

15. MDD policy DM25 requires that development should seek to protect, and where possible improve, the amenity of existing surrounding residents. Part (d) confirms that development should not result in an unacceptable material deterioration of sunlighting and daylighting conditions of surrounding development including habitable rooms of residential dwellings, assessed in accordance with the BRE Guide. A recent Court judgment has clarified that this should be a two-stage process¹. In essence, first, as a matter of calculation, whether there would be a material deterioration in conditions and second, as a matter of judgement, whether that deterioration would be acceptable in the particular circumstances of the case.
16. The Court held that the first question can be answered by applying the BRE Guidelines: for each window assessing the 'vertical sky component' (VSC) and the 'no sky line' (NSL) for daylight and the 'annual probable sunlight hours' (APSH) for sunlight. If the guidelines are exceeded the deterioration would be material. In answering the second question - whether that deterioration is acceptable - wider considerations come into play. This indicates to me that the acceptability of a material deterioration in living conditions must be judged in its local context.
17. The parties agree, as a matter of calculation, that in total 201 windows to 166 rooms in 58 different apartments would suffer a significant loss of daylight and 14 living rooms would not meet the annual guidelines for sunlight, resulting in a material deterioration in conditions:²
 - In 23 Goldpence apartments, of 147 windows to 67 rooms, 52 would meet the guidelines and 95 would see a reduction in VSC, 64 of them by 40% or more; 27 rooms would see a reduction in NSL, 17 of them by 40% or more; and 6 living rooms would not meet APSH guidelines.
 - In 9 Altitude apartments, of 39 windows to 19 rooms, 18 would meet the guidelines and 21 would see a reduction in VSC, 7 of them by 40% or more; all 19 rooms would meet the NSL guidelines; and 1 living room would not meet APSH guidelines.
 - In 7 apartments at 55-57 Alie Street, of 25 windows to 11 rooms, 11 would meet the guidelines and 14 would see a reduction in VSC, 3 of them by 40% or more; 9 rooms would see a reduction in NSL, 1 of them by 40% or more; and all living rooms would meet APSH guidelines.
 - In 19 Blakeney Tower apartments, of 115 windows to 69 rooms, 44 would meet the guidelines and 71 would see a reduction in VSC, 32 of them by 40% or more; 9 rooms would see a reduction in NSL, 4 of them by 40% or more; and 7 living rooms would not meet APSH guidelines.
 - In addition, there would be a loss of sunlight exceeding APSH guidelines to the open amenity space to the north-west of the site, between Blakeney Tower and the Indigo Hotel.

¹ Rainbird v The Council of the London Borough of Tower Hamlets [2018] EWHC 657 (Admin). 83-84

² This information is itemised in Document 11, an agreed table showing the 'number of windows and rooms not meeting BRE Guidelines', dated 19 November 2018.

18. This is a clear demonstration of the calculated impact of the proposed building on the living conditions of neighbours, particularly at Goldpence Apartments, but it is not the full story. While the Council relies on the calculated material deterioration as evidence of unacceptability in policy terms, the BRE themselves confirm that their advice is not mandatory and that their guidelines should not be seen as an instrument of planning policy. The appellants point out that the BRE Guide recognises that *'in a historic city centre, or in an area with modern high rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.'*³
19. Both the Altitude/Goldpence Apartments, at 28 storeys, and Blakeney Tower, at 22 storeys, are effectively built right up to the roadside boundaries of their respective sites. Thus in both cases virtually all windows are effectively on the site boundary. Many of those at Goldpence Apartments, immediately opposite the site, are recessed under overhanging balconies. The BRE Guide recognises that windows that are unusually close to the boundary take more than their fair share of light. This is an acknowledgement that the first built scheme of a local cluster could otherwise prevent the full potential of adjacent sites from being realised.
20. In such inequitable circumstances the *Rainbird* judgement found that *'If an existing building has been so designed that , whether by the inclusion of balconies or overhangs, it makes relatively larger reductions in daylight unavoidable even if there is a modest new obstruction opposite, that design could be seen as taking for the existing building 'more than their fair share of light' in the same way the BRE Guide regards a building that has windows that 'are unusually close to the site boundary' as doing; in each case, a greater reduction in daylight and sunlight may be unavoidable if one site is not to be unfairly prejudiced by how another has been developed.'*⁴
21. In such a situation the BRE Guide advises that *'To ensure that new development matches the height and proportion of existing buildings, the VSC and APSH targets for these windows could be set to those for a 'mirror-image' building of the same height and size, an equal distance away on the other side of the boundary.'*⁵
22. The appellants carried out an assessment of the impact on all affected windows through a range of criteria, including a mirror image exercise with the 28 storey Altitude/Goldpence Apartments building. The assessment identifies the least and worst affected apartments in all the surrounding buildings to give an indication of the range and scale of noticeable change. Many of the flats face onto narrow streets or buildings opposite and already have low VSC levels. That is a characteristic of the area. The appellants show that, while the calculated impact figures may indicate a drastic change, in practice, starting from an existing low level, many would experience no more than a 3% absolute loss of daylight, a virtually imperceptible change. The worst affected living rooms would experience less than 5% absolute loss, a barely noticeable change.
23. The mirror-image exercise, although not quite to the letter of the guidelines, gives a clear indication that overall, in this more equitable arrangement, many more flats in the Altitude/Goldpence Apartments building would be affected and

³ Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice 2nd Edition 2011 para 1.6

⁴ *Rainbird v The Council of the London Borough of Tower Hamlets* [2018] EWHC 657 (Admin). 104

⁵ Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice 2nd Edition 2011 Appendix F para F5.

many more in the upper storeys would have a material deterioration in daylight and sunlight levels similar to those in the lower storeys. Such an impact would be considered acceptable, in terms of a fair share of light. In my view this provides a reasonable justification for a greater reduction in daylight and sunlight levels in the surrounding buildings as a result of this proposal than might otherwise be considered appropriate. By strictly applying the BRE guidelines, development of the site would be unfairly prejudiced.

24. The open space between Blakeney Tower and the Indigo Hotel is part of a gated thoroughfare with time-limited access. There would be some loss of sunlight to this area but there would still be several hours of midday summer sunlight to the small area of seating, the time and place where, other than just passing through, the open space is likely to be most used.

Loss of outlook/sense of enclosure

25. This again is a matter to be judged in the local context. The erection of a 13 storey tower block on the site of 5 storey offices necessarily means that there would be some loss or curtailment of outlook and current views from some rooms in a number of flats in the Altitude/Goldpence Apartments building. The new building, some 9 metres away, in restricting outlook could also lead to a greater sense of enclosure.
26. However the site is located in an area where planned high-density substantial growth is taking place. Inevitably, the resulting tall buildings are located in close proximity to each other, so that apartments with a restricted outlook have become the norm. Apartment layout design has been adapted to reflect this so that, especially seen against the advantages of being in such an accessible location, such living conditions are perfectly acceptable. While the proposed development would clearly mean a loss of outlook from some apartments, the resulting conditions would reflect the prevailing living standards in the area. Given the location and built context of the site I do not consider that to be an unacceptable change.
27. From the courtyard windows of the apartments at 55-57 Alie Street, and the courtyard space itself, the current outlook is of tall towers - the 23 storey Leman Locke building, the 22 storey Blakeney Tower, and the 28 storey Altitude/Goldpence Apartments building – looming above. The 13 storey proposal would be closer, but it would be much lower. I consider that overall there would be a very limited change in the characteristic outlook from this area and no significantly greater sense of enclosure.

Conclusion

28. There would be a significant number of apartments in the surrounding buildings where existing levels of daylight and sunlight would be reduced and current outlook restricted. Some residents understandably find these prospective changes objectionable. However, the reductions would not be excessive and, in the site-specific circumstances of this case, wider considerations need to be taken into account. Because of its high accessibility, the area is rapidly, and deliberately, changing into a high density urban hub, with tall buildings close together. Inevitably this results in what might be termed dense urban living conditions, where flats are designed to allow for limited expectations of wide outlooks and high levels of sunlight and daylight. With the advantages of living in an accessible and thriving community, that is considered acceptable.

29. The changed living conditions in the affected flats would reflect this local context. The changes on the whole would not be great and the resulting living conditions would be no different to most other contemporary apartments in the area. Bearing in mind the proximity of the Altitude/Goldpence Apartments building to the site and the Court finding that *a greater reduction in daylight and sunlight may be unavoidable if one site is not to be unfairly prejudiced by how another has been developed*, I consider that the proposal would not result in any unjustified changes. For these reasons I find that, in compliance with MDD policy DM25, there would be no unacceptable impact on the living conditions of the occupiers of neighbouring residential properties.

The effect of the proposal on the character and appearance of the local townscape

30. Enterprise House is part of a small, tightly knit urban group of a very mixed character including, as it does, 3-4 storey historic buildings, 5-7 storey late 20th century buildings and a 28 storey modern tower block. This group is part of a larger urban block bounded by Alie Street, Lemman Street and Commercial Road. Much of this block has been comprehensively redeveloped with a series of tall buildings, including the Altitude/Goldpence Apartments building, as part of the Council's vision for Aldgate. Similar development fronts Alie Street and more is planned on Lemman Street. Most new buildings, offices and residential, have complementary uses at lower levels, - shops, bars, restaurants - which together with associated high quality landscaping provide an attractive, human scale street scene. These prevailing characteristics provide the townscape setting for the site at the centre of the urban block.
31. Buckle Street, a vehicular cul-de-sac, gives access to the site off Lemman Street. Enterprise House lies on the corner of Buckle Street and Plough Street, a short stub off it simply providing service access. Buckle Street is something of a backwater, little used and, apart from Lemman Locke at its entrance, with no active frontages and little of interest at street level. The City Reach apartment block is of limited architectural value while Enterprise House, empty and unused for some time, is of low quality and particularly unattractive. Plough Street has a somewhat utilitarian character. The existing building on the site contributes nothing to, and if anything detracts from, the townscape character of the area.
32. The proposed 13 storey replacement building would occupy the whole of the site. It would be less than half the height of the adjacent Altitude/Goldpence Apartments building and significantly lower than the other surrounding towers. I consider that this building would successfully provide a transition in scale, height and built volume between the historic buildings to the south and the taller buildings of the Aldgate redevelopment to the north.
33. It has been carefully designed, with street-facing uses at the lower levels, brick-clad bedroom levels above and the top storeys clad in glass bricks. The full height 2 storey glazing at street level, within an articulated framework of nickel-faced metal, would turn the corner onto Plough Street. This would reveal a reception area and café/workspace at ground level and rentable workspace at mezzanine level. The surrounding area is becoming increasingly permeable for pedestrians and this interesting street frontage, active throughout the day and evening, would be visible to the wider area through the publicly accessible open space between Blakeney Tower and the Indigo Hotel, drawing people through so that Buckle Street would become a more active thoroughfare.

34. The Council's fears that the development would result in a 'canyon' effect in Buckle Street are ungrounded. The building would be fairly narrow, the visually lighter top would reduce the perception of height, and it would be located immediately opposite an area of open space. These are not 'canyon' conditions. In my view, this is a high quality, restrained design that would properly reflect the character of the local area and the nature of the site. It would be proportionate to its location and would relate well to its mixed surroundings within its small urban group and the larger urban block. In combination with the adjacent sites it would significantly improve the quality of the public realm, creating a distinct sense of place on Buckle Street and making a positive contribution to the townscape character of Aldgate.
35. The proposal would therefore comply with LP Policies 7.4, 7.5, 7.6, and 7.7; CS Policies SP10 and SP12; and MDD Policies DM23, DM24 and DM26. It would also meet the Framework imperatives of building a strong economy and contributing to the vitality of urban centres. Thus I find that the proposal would have a beneficial effect on the character and appearance of the local townscape.

The effect of the development on the significance of designated heritage assets

36. The Council's reason for refusal refers to '*resultant harm to the significance of the setting*' of the listed buildings. This is not the test. The setting of a listed building is not a heritage asset in itself; the setting can contribute to the significance of the building and what must be assessed is whether development within the setting would harm the significance of the building.
37. The heritage assets identified are:
- the grade II listed Eastern Dispensary building on Lemn Street, built in 1858 to provide free medical help to the poor of East London;
 - the grade II* listed St George's German Church on Alie Street, a German Lutheran church built in 1762-3;
 - the grade II listed St George's German and English Schools building on Alie Street, an elementary school for boys and girls built in 1877 for the German Lutheran church; and
 - the grade II listed St George's German and English Infants' School, built in 1856 for the German Lutheran church on part of what was formerly the church graveyard. This earlier school now lies within a small courtyard enclosed by the church and the elementary school.
38. The German Church and the 2 schools are also listed GV for their group value. Together they represent the sole remaining built evidence of a once substantial German quarter of London, known as 'Little Germany.' The schools were converted to residential accommodation in the late 1990s and the Dispensary is in use as a bar/restaurant so, while their exteriors survive, the interiors of these buildings are much altered. The church remains virtually intact, with the whole interior a remarkable and complete survival of high-quality traditional craftsmanship.

Setting and significance

39. The heritage significance of all these buildings lies primarily in their special architectural and historic interest, although the quality and craftsmanship of the church interior is also of artistic value. Seen as an attractive group of adjoining buildings forming the corner of Lemman Street and Alie Street, the original setting of the group - the surroundings in which it is experienced - has drastically altered over the years, particularly with the regeneration of Aldgate. A key viewpoint is from across the road at this junction. From here, the buildings are seen against an imposing backdrop of a cluster of tall buildings, and are effectively bracketed by the 23 storey Lemman Locke and 28 storey Altitude/Goldpence buildings. Blakeney Tower is visible above the roof of the Dispensary. Moving along Alie Street, the Altitude/Goldpence building becomes more prominent, and Blakeney Tower is lost behind the roof of the school. While Lemman Street and Alie Street are historic routes, they are much altered and in my view the current urban setting of these listed buildings makes no positive contribution to their interest or significance as heritage assets.
40. Formerly the church burial ground, the sheltered courtyard provides a secluded and tranquil setting in which to appreciate the church, contributing much to its significance and to that of the schools which overlook it. The north wall of the courtyard is modern, formed by Enterprise House and a small part of the City Reach apartment block. The wall to Enterprise House is not of particularly good quality, detracting from the character of the enclosed space. Blakeney Tower and the Altitude/Goldpence building loom over the courtyard, a reminder that this secluded courtyard lies within a densely built up urban area.

Impact

41. From Lemman Street, the proposed building would be seen above the roof of the Dispensary, effectively screening Blakeney Tower and replacing it in the view. Although closer than Blakeney it would be narrower and much lower in height so that its visual impact would be perceived as very similar. From Alie Street, there would be limited views of the glass brick upper storeys of the proposed building above the roofs of the church and the school. It would be seen as a subservient background element, reflective and translucent against the sky. Seen adjacent to the upper storey of Lemman Locke it would, again, be perceived as of similar height. While this proposal would add another tower block, albeit somewhat lower, this is consistent with the distinctive character of the area and would cause no harm to the urban setting of the listed buildings group.
42. The new building would adjoin the internal courtyard, extending part of the north wall upwards to 13 storeys. This to some extent would increase the sense of urban intrusion in the courtyard, but this is an established characteristic and the impact on the character of the courtyard setting and the ability to appreciate the listed buildings would be very limited. The building would consist of 3 elements - a rendered base wall, brickwork and glazed bricks. This breakdown would effectively limit the perception of height. The base wall, similar in height to City Reach, would provide a higher quality enclosure to the courtyard, enhancing the setting of the listed buildings. I consider that, taken overall, the proposed new building would not harm the courtyard setting of the listed church and schools.
43. The Council also argues that the proposal would result in a loss of light to The Church of St George, harming its significance as a grade II* listed building. The

church's interior is of exceptional interest and value. It is daylit by stained glass and coloured glass windows. Internal daylight levels are low and the interior is somewhat gloomy. Any activities requiring good lighting would rely on artificial light, provided by central chandeliers. The new building would be located to the north of the church, so there would be no overshadowing, but it would be quite close to it, reducing available daylight to some of the windows.

44. The parties agree that, in daylight and sunlight terms, the loss of light would be acceptable. There would be a very minor change in lighting levels which would be barely noticeable. Views out of the building through the semi-obscurd coloured glass and small clear margins would be oblique and extremely limited. I consider that the ability to appreciate the architectural, historic and artistic interest of the church interior would be undiminished by these minor changes and that its significance would remain unharmed.

Conclusion

45. There would be no direct impact on the listed buildings themselves. The former Dispensary would remain unchanged and the church and schools would continue to be the sole remaining built evidence of 'Little Germany', contributing much to the character of the local area. The nature of the current urban setting of the group makes no contribution to the significance of the listed buildings, either individually or as a group, and that setting would be unaffected by the proposed development. Change would be more noticeable from within the courtyard but, on balance, that would not harm the setting of the church and schools or affect the contribution it makes to the significance of these listed buildings.
46. Overall I find that these proposals would preserve the listed buildings and their setting, in compliance with LP policy 7.8 and MDD policy DM27, and that the proposed development within their setting would not harm the significance of the listed buildings as designated heritage assets.

Whether the proposal would result in an unacceptable overdevelopment of the site

47. I have found that the proposed development at 21 Buckle Street would have no unacceptable impact on the living conditions of the occupiers of neighbouring residential properties; it would if anything have a beneficial effect on the character and appearance of the local townscape; and it would cause no harm to the setting and significance of the adjacent listed buildings. Taking these factors together, it is clear that in terms of its height, scale and mass the carefully considered design of the building relates well to its surroundings. The proposal takes the opportunity to optimise the use of the site and to improve the character and quality of the area and the way it functions, consistent with the objectives of sustainable development and the delivery of high quality place-making within Aldgate. While the site may be small and tightly confined, it would not be overdeveloped.

Obligations and conditions

Planning obligation

48. The Agreement between the parties commits the appellant to making a contribution towards on-street disabled parking; to contributing to Crossrail funding; to making both a construction phase and an end use phase employment and training contribution; and to meeting monitoring costs. The

appellant will also participate in the Council's employment and training initiatives; and will not promote, cause or knowingly permit coach travel to the premises or surrounding area.

49. All these provisions arise from local development plan policies and supplementary guidance and are necessary to meeting the costs of related infrastructure improvements and to complying with the strategic objectives for the area. None are subject to Regulation 123 restrictions. The Agreement was discussed at the inquiry and I am satisfied that all the provisions are necessary to make the development acceptable in planning terms, are directly related to it and are fairly and reasonably related in scale and kind. The provisions of the Agreement therefore comply with CIL Regulation 122(2).

Conditions

50. The agreed conditions, listed in the statement of common ground, were considered at the inquiry. There was some discussion as to whether the hard landscaping condition 13 was necessary but there would be a small amount of paving on the perimeter of the building so it would be appropriate to require details for prior approval. Otherwise all the conditions are reasonable and necessary to the development for the reasons given in the agreed schedule. I consider the pre-commencement conditions to be so fundamental to the development of the site that, without them, it would be necessary to refuse permission. The appellants confirmed agreement in writing to the pre-commencement conditions by signature of the statement of common ground.

Conclusions

51. The site is in a location identified for substantial growth and regeneration. The proposal would provide a new 103 unit aparthotel together with a café and rentable workspace in a particularly accessible location. This would meet an established need and contribute significantly to the local economy. The building has been designed to an exemplary standard, respectful of its surroundings and human in scale, presenting an attractive frontage to Buckle Street. This active frontage would draw people through, creating a new sense of place and improving the quality of Buckle Street as a more active thoroughfare. All this would be a significant public benefit as part of the overall regeneration of Aldgate. I consider that the proposal would be entirely consistent with the local development plan and the supporting supplementary guidance. It would deliver the overarching economic, social and environmental objectives of the planning system, thereby contributing to the achievement of sustainable development.
52. For the reasons given above I conclude that the appeal should be allowed and planning permission granted subject to the conditions set out in the attached Annex.

Colin Ball

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Meyric Lewis of Counsel	Instructed by Janet Fasan, Divisional Director of Legal Services, LB Tower Hamlets.
He called:	
Paul Littlefair MA PhD CEng MCIBSE FSLL MILP	Principal Lighting Consultant BRE.
Laurie Handcock MA MSc IHBC	Director, Heritage Team, Icen Projects.
Elizabeth Donnelly BA(Hons) MA LRTPI	Principal Planning Officer, LB Tower Hamlets.

FOR THE APPELLANTS:

Christopher Katkowski QC and Ben Fulbrook.	Instructed by Simon Ricketts of Town Legal LLP.
They called:	
Matthew Grzywinski BA BArch AIA	Partner, Grzywinski and Pons Architects.
Andrew Williams BA(Hons) DipLA DipUD CMLI	Director, Define.
Sara Davidson BSc(Hons) MSc IHBC	Director, Heritage Collective.
Gordon Ingram RICS	Partner, Gordon Ingram Associates.
Chris Benham BA(Hons) MA RTPI	Planning Director, G L Hearn.

INTERESTED PERSONS:

Alexander Farquhar	Resident, 55-57 Alie Street.
Peter Park	Resident, Goldpence Apartments.
Kevin Moore	Resident, 55-57 Alie Street.
Paul Rider	Resident, Goldpence Apartments.
Grant Gustafson	Resident, 55-57 Alie Street.

ADDITIONAL DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Mr Katkowski's opening statement.
- 2 Mr Lewis' opening statement.
- 3 Updated statement of common ground.
- 4 Draft planning Agreement.
- 5 Ms Donnelly's errata.
- 6 Mr Ingram's errata.
- 7 Mr Ingram's briefing note.
- 8 Mr Ingram's overshadowing plans.
- 9 Mr Ingram's presentation slides.
- 10 Ms Davidson's corrected photo viewpoint 03.
- 11 Agreed version; chart showing number of windows and rooms not meeting BRE Guidelines.
- 12 Copy of Appeal decision APP/E5900/W/17/3171437.
- 13 Copy of Secretary of State's decision APP/N5660/V/13/2205181-5.
- 14 Mr Park's speaking notes.

- 15 Mr Rider's speaking notes.
- 16 Summary of s106 Agreement.
- 17 CIL compliance schedule.
- 18 Certified copy of executed s106 Agreement.
- 19 Site visit itinerary
- 20 Mr Lewis' closing submissions.
- 21 Mr Katkowski's closing submissions.

ANNEX A

Planning permission is granted for the demolition of the existing office building and the erection of a 13 storey building (plus enclosed roof top level plant storey) rising to 56.32m (AOD) containing 103 unit aparthotel (C1 Use) with B1 Use Class office workspace at ground and mezzanine level with an ancillary café (A3 Use Class) and hotel reception space at ground floor, together with ancillary facilities, waste storage and associated cycle parking store at Enterprise House, 21 Buckle Street, London E1 8NN in accordance with the terms of the application Ref PA/16/03552, dated 2 December 2016, subject to the following conditions:

Compliance

Time limit

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

Compliance with plans

- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in document 3 attached to this decision.

Provision of cycle parking

- 3) The cycle storage shown on approved Drawing No. **PB5396-R005-02** (appended to Transport Statement dated 26 April 2017) and Drawing No. **a-100.2 Rev C** shall be provided prior to the occupation of the development and thereafter shall be made permanently available for the occupiers of the building.

Demolition

- 4) Prior to the start of demolition (within the 5 days before), a suitably qualified ecologist shall check the roof to ensure that no nesting or nest-building birds are present. If the above birds are present then demolition shall not start until an ecologist confirms that the birds have finished nesting. In the event that no birds are found, demolition can begin.

Wheelchair accessibility

- 5) No less than 10% of the rooms shall be fully wheelchair accessible.

Lawful use

- 6) The building shall not be occupied other than as an aparthotel (Class C1).

Pre-commencement

Archaeology investigation

- 7) No development other than demolition to ground level shall take place until a written scheme of investigation (WSI), archaeological work, has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:

- a. The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.

- b. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material, this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI

Construction Environmental Management & Logistics Plan.

- 8) No development shall take place, including any works of demolition, until a Construction Environmental Management & Logistics Plan have been submitted to and approved in writing by the Local Planning Authority.

The plans shall aim to minimise the amenity, environmental and road network impacts of the demolition and construction activities and include the details of:

- a) Telephone, email and postal address of the site manager and details of complaints procedures for members of the public;
- b) Dust Management Strategy to minimise the emission of dust and dirt during construction including but not restricted to spraying of materials with water, wheel washing facilities, street cleaning and monitoring of dust emissions;
- c) Measures to maintain the site in a tidy condition in terms of disposal/storage of waste and storage of construction plant and materials;
- d) Scheme for recycling/disposition of waste resulting from demolition and construction works;
- e) Ingress and egress to and from the site for vehicles;
- f) Proposed numbers and timing of vehicle movements through the day and the proposed access routes, delivery scheduling, use of holding areas, logistics and consolidation centres;
- g) Parking of vehicles for site operatives and visitors;
- h) Travel Plan for construction workers;
- i) Location and size of site offices, welfare and toilet facilities;
- j) Erection and maintenance of security hoardings including decorative displays and facilities for public viewing;
- k) Measures to ensure that pedestrian access past the site is safe and not obstructed;
- l) Measures to minimise risks to pedestrians and cyclists, including but not restricted to accreditation of the Fleet Operator Recognition Scheme (FORS) and use of banksmen for supervision of vehicular ingress and egress.

The development shall be carried out in accordance with the approved details.

Land contamination

- 9) 1. No development (excluding demolition works, site preparation, erection of fencing, laying/provision of services, laying of temporary surfaces) shall take place until a remediation scheme has been submitted to and approved in writing by the local planning authority.

The scheme shall identify the extent of the contamination and the measures to be taken to avoid risk to the public, buildings and environment when the site is developed. Details of the scheme shall include:

- i. A 'desk study report' documenting the history of the site.
- ii. A proposal to undertake an intrusive investigation at the site based on the findings of the desk study.
- iii. A 'site investigation report' to investigate and identify potential contamination.
- iv. A risk assessment of the site.
- v. Proposals for any necessary remedial works to contain treat or remove any contamination.

2. Occupation of the development shall not begin until:

- i. The remediation works approved by the local planning authority as part of the remediation strategy have been carried out in full. If during the remediation or development work new areas of contamination are encountered, which have not been previously identified, then the additional contamination should be fully assessed in accordance with condition [1(iii-iv)] above and an adequate remediation scheme shall be submitted to and approved in writing by the local planning authority and fully implemented thereafter.
- ii. A verification report, produced on completion of the remediation works to demonstrate effective implementation of the remediation strategy, has been submitted to and approved in writing by the local planning authority. The content of the report must comply with best practice guidance and should include details of the remediation works carried out, results of verification sampling, testing and monitoring and all waste management documentation showing the classification of waste, its treatment, movement and/or disposal in order to demonstrate compliance with the approved remediation strategy.

Detailed drawings and samples

- 10) Prior to commencement of works above ground floor slab, samples and full particulars of all external facing materials to be used in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority.

Details submitted pursuant to this condition shall include but are not restricted to:

- a) Mock-up panels of no less than 1m by 1m of each external cladding material.

Details of external cladding, where relevant, shall include all types of brick or other cladding material to be used, details of bond, mortar and pointing for brick and details of joints, panel sizes and fixing method for other types of cladding.

If an off-site manufactured cladding system is to be used, the full details of the system shall be provided and the mock-up panel shall include at least one junction between pre-assembled panels.

b) Samples and drawings of fenestration.

Details of fenestration, where relevant, shall include reveals, sills and lintels. Drawings shall be at a scale of no less than 1:20.

c) Drawings and details of entrances.

Details of entrances, where relevant, shall include doors, reveals, canopies, signage, entry control, post boxes, CCTV, lighting and soffit finishes. Drawings shall be at a scale of no less than 1:20.

d) Details of any external rainwater goods, flues, grilles, louvres and vents.

e) Details of any external plant, plant enclosures and safety balustrades.

The development shall be carried out in accordance with the approved details.

Measures to mitigate overlooking and light spill

- 11) Prior to commencement of works above ground floor slab, details of measures to mitigate overlooking and light spill out to neighbouring residential buildings shall have been submitted to and approved in writing by the Local Planning Authority.

Noise standards for mechanical plant

- 12) Any mechanical plant and equipment within the development shall be designed and maintained for the lifetime of the development so as not to exceed a level of 10db below the lowest measured background noise level (LA90, 15 minutes) as measured one metre from the nearest affected window of the nearest affected residential property. The plant and equipment shall not create an audible tonal noise nor cause perceptible vibration to be transmitted through the structure of the building.

Within 3 months of first occupation, a post installation verification report relating to mechanical plant or equipment, including acoustic test results, shall be submitted to and approved in writing by the Local Planning Authority confirming that the above maximum noise standard has been achieved and that the mitigation measures are robust.

Hard landscaping

- 13) Prior to occupation of the building, details of a hard landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall include details of:

- a) hard landscaping including ground surfaces and kerbs
- b) drain covers, manholes and covers for access to drainage and utilities;
- c) CCTV and other security measures;
- d) external cycle parking stands;

Site levels

- 14) No development (excluding demolition works, site preparation, erection of fencing, laying/provision of services, laying of temporary surfaces) shall take place until details of finished ground levels, gradients, thresholds and inclusive access provisions have been submitted to and approved in writing by the Local Planning Authority.

Biodiversity enhancements

- 15) No development above ground shall take place until details of the biodiversity enhancements recommended by the Ecological Appraisal (by Ramboll, dated November 2016) have been submitted to and agreed in writing by the Local Planning Authority. It shall include:
 - Details of biodiverse roofs (including nectar-rich planting). The biodiverse roofs shall be designed in accordance with '*Creating Green Roofs for Invertebrates*' best practice guide by Buglife (details to include location, area, substrate depth, substrate type and details of any additional habitats such as piles of stones or logs);
 - Details of nest boxes (including nesting boxes for swifts and house martins). The details shall include number, location and type of boxes.

The biodiversity enhancements shall be implemented in full and retained and maintained for the lifetime of the development.

Surface water drainage

- 16) No development above ground shall take place until a Sustainable Urban Drainage Scheme (SUDS), including demonstration that the existing site discharge has been reduced by 50% and details of on-going maintenance provisions has been submitted to and approved in writing by the Local Planning Authority.

The approved SUDS scheme shall be completed prior to the first occupation of the development and thereafter maintained in operational condition for the lifetime of the development.

Piling impact

No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority.

Any piling shall be undertaken in accordance with the terms of the approved piling method statement.

Secure by design

- 17) Prior to the commencement of any above ground works (including the laying out of the basement), details of the measures that will be incorporated into the development in order to achieve Secured by Design Scheme certification shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the details thereby approved.

Pre-occupation

Energy efficiency and sustainability

- 18) The development shall be carried out in accordance with the approved Energy Strategy Rev E (by Applied ENERGY dated Nov 2016) and Sustainability Statement (by Ramboll dated Nov 2016). The energy efficiency and sustainability measures set out therein shall be completed prior to the first occupation of the development and retained for its lifetime, unless otherwise agreed in writing by the local authority.

The development shall achieve regulated carbon dioxide emission savings of no less than 45% against the Target Emissions Rate of Part L of Building Regulations (2013).

The development shall achieve compliance with 'Excellent' BREEAM standard.

The hot water supply system shall be designed and constructed so as to enable a future connection of the supply system to a district heating network.

Within 3 months of first occupation, a post completion verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm that the above minimum standards have been achieved and that all of the approved energy efficiency and sustainability measures have been implemented.

Delivery and servicing plan

- 19) Prior to occupation, a Delivery, Servicing and Waste Management Plan, (including a Servicing Management Plan), shall be submitted to and approved in writing by the local planning authority, and include the following:

No. of trips and frequency of trips generated by the development;

Location of delivery and servicing (including vehicle sizes and swept path analysis)

Delivery and servicing hours (which should be off-peak, where possible).

A strategy to consolidate delivery and servicing trips with neighbouring development (where possible), including details of how this reduces frequency of trips to Buckle Street.

Details of how the delivery and servicing shall be coordinated to avoid conflict with refuse collections associated with neighbouring residential development.

The provisions of the approved Plan shall be maintained for the lifetime of the development, unless otherwise agreed in writing by the local planning authority.

The waste storage and collection facilities shown on drawing no. **a-100.2 Rev C** shall be provided prior to the first occupation of the development and maintained in an operational condition for the lifetime of the development

Travel plan

- 20) Prior to the occupation of the development, a Travel Plan in respect to staff and visitors to the development, shall be submitted to and approved in writing by the Local Planning Authority.

The Travel Plan shall include on-going review provision.

The provision of the approved Plan shall be implemented in full and maintained for the lifetime of the Development.

Water supply infrastructure

- 21) The development shall not be occupied until a Water Supply Impact Study has been submitted to and approved in writing by the Local Planning Authority.

The study shall determine the magnitude of any new additional water supply capacity required as a result of the development and the location of a suitable water supply connection point.

The development shall be carried out in accordance with the approved details.