

<b>Committee(s):</b>	<b>Date:</b>
Planning & Transportation Committee	8 <sup>th</sup> September 2015
<b>Subject:</b> Planning Appeal Decisions	<b>Public</b>
<b>Report of:</b> The City Planning Officer	<b>For Information</b>
<p><b><u>Summary</u></b></p> <p>The purpose of this report is to advise the Committee of the decisions made by the Planning Inspectorate on appeals made against the decisions of the City Corporation during January – August 2015.</p> <p><b>Recommendations</b></p> <p>I recommend that the contents of this report be noted.</p>	

## **Main Report**

### **Background**

1. This report is to notify your Committee of the outcomes of appeals made to the Planning Inspectorate during January 1<sup>st</sup> 2015 – August 20<sup>th</sup> 2015.

### **Current Position**

2. During this period, six planning appeals were decided by the Planning Inspectorate against refusals by the City of London Corporation. Five of these were appeals against refusal for Advertisement consent; all five appeals were dismissed by the Planning Inspectorate.
3. An appeal was submitted in relation to an application for planning permission for development at 160 Aldersgate Street, which the Committee resolved to refuse contrary to the recommendation of the Chief Planning Officer on 1<sup>st</sup> December 2014 (ref: 14/00878/FULMAJ).
4. The grounds for refusal were “The proposed alteration and extension of the building which includes an increase in bulk and height, and the formation of accessible terraces would lead to a diminution of residential amenity to nearby residential occupiers contrary to Core Strategy CS21 and Draft Local Plan Policy DM 21.3”

5. A subsequent application for planning permission for an amended scheme at 160 Aldersgate Street was approved by Committee on 17<sup>th</sup> March 2015 (ref: 15/00086/FULMAJ).
6. The appeal against the Committee's refusal of planning permission was allowed subject to 26 conditions. The conditions address matters raised for both applications including the hours of use of the proposed roof terraces, retail unit and the new rear access at Half Moon Court. A copy of the appeal decision and the schedule of conditions are appended to this report. The Inspector did not agree four conditions recommended by your Officers.

Application number Address	14/00532/ADVT Baynard House,135 Queen Victoria Street, London, EC4V 4AA
Proposal	Installation and display of (i) one internally illuminated LED advertising display panel measuring 3.6m high and 2.4m wide, at height above ground of 3m (ii) one internally illuminated LED advertising display panel measuring 3.6m high and 2.4m wide, at height above ground of 1.15m.
Appeal Type	Appeal Against Refusal
Appeal decision	Appeal Dismissed 12/03/2015

Application number Address	14/00516/ADVT Land On South Side of Goodman's Yard, London, E1
Proposal	Erection of a free-standing internally illuminated advertisement display panel measuring 3.6m high by 2.4m wide at a height above ground of 2m.
Appeal Type	Appeal Against Refusal
Appeal decision	Appeal Dismissed 06/05/2015

Application number Address	14/00660/ADVT 117, 119 & 121 Bishopsgate, Alderman's House, 34-37 Liverpool Street, 1 Alderman's Walk And Part of White Hart Court, London, EC2M 3TH
Proposal	Installation and temporary display of an externally illuminated hoarding advertisement and associated scaffolding shroud until 21.06.2016.

Appeal Type	Appeal Against Refusal
Appeal decision	Appeal Dismissed 08/05/2015

Application number Address	14/01167/ADVT 45 Old Broad Street, London, EC2N 1HT
Proposal	Installation and display of an internally illuminated digital display hoarding measuring 5.5m wide by 5.5m high displayed at a height of 6 metres above ground level.
Appeal Type	Appeal Against Refusal
Appeal decision	Appeal Dismissed 18/08/2015

Application number Address	14/01280/ADVT 42 - 44 Bishopsgate, London, EC2N 4AH
Proposal	Installation and display of a 1:1 architectural building facsimile with illuminated advertisement inset measuring 12m high x 8m wide and located at a height of 4m above ground level, to the gable of building for a temporary period of 12 months.
Appeal Type	Appeal Against Refusal
Appeal decision	Appeal Dismissed 18/08/2015

Application number Address	14/00878/FULMAJ 160 Aldersgate Street, London, EC1A 4DD
Proposal	Refurbishment and extension of the existing office building including (i) the construction of an additional storey (incorporating plant) (ii) reconstruction of the facade on Aldersgate Street (iii) provision of retail floorspace (Class A1) at ground floor level (84sq.m.) (iv) provision of roof terraces at 7th and 8th floor levels (v) installation of an additional access point at the rear of the building, and (vi) associated internal and external alterations (total increase in floorspace 1,913sq.m.).
Appeal Type	Appeal Against Refusal
Appeal decision	Appeal Allowed 31/07/2015

If Members wish to see any of these appeals against refusals of Advertisement consent they can be made available by contacting the Officer set out below.

### **Conclusion**

7. Your Committee is recommended to note the contents of this report.

### **Contact:**

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# Appeal Decision

Site visit made on 17 June 2015

**by R W Allen B.Sc (Hons) PGDip MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 31 July 2015**

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**Appeal Ref: APP/K5030/W/15/3003027**  
**160 Aldersgate Street, London EC1A 4DD**

- 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 Greyhound Investing Corp against the decision of the City of London Corporation.
  - The application Ref 14/00878/FULMAJ, dated 29 August 2014, was refused by notice dated 3 December 2014.
  - The development proposed is reconfiguration and extension of the existing office building comprising the construction of an additional storey; reconstruction of the façade on Aldersgate Street; provision of retail floor space at ground floor; installation of an additional access point at the rear of the building and associated internal and external alterations.
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## Decision

1. The appeal is allowed and planning permission is granted for the reconfiguration and extension of the existing office building comprising the construction of an additional storey; reconstruction of the façade on Aldersgate Street; provision of retail floor space at ground floor; installation of an additional access point at the rear of the building and associated internal and external alterations at 160 Aldersgate Street, London EC1A 4DD in accordance with the terms of the application, Ref 14/00878/FULMAJ, dated 29 August 2014, subject to the 26 conditions set out in the schedule of conditions at the end of this Decision.

## Preliminary Matter

2. The City refer to policy CS21 of the City of London Core Strategy 2011, and Draft Local Plan policy DM.21.3 in its reason for refusal. The City has subsequently adopted the City of London Local Plan 2015 (adopted LP). Both policies are included in the adopted LP, albeit in a slightly modified form. The development is to be determined in accordance with the development plan unless material considerations indicate otherwise. I have accordingly determined the appeal against those adopted policies and am satisfied that parties will not be caused any injustice by me taking this approach.

## Main Issue

3. Following the submission of the appeal; The City has resolved to grant planning permission for a similar application (Ref 15/00086/FULMAJ) on 17 March 2015. The principle differences are that the revised scheme shows:

- i) The removal of the proposed A1 retail unit on the ground floor and a reconfiguration to provide a larger office reception;
  - ii) Increased levels of landscaping for the southern end of the western terrace for existing level 7 and on the southern side of the terrace for new level 8;
  - iii) Removal of the proposal to enlarge the existing windows on the southern elevation to level 7; and
  - iv) The removal of the windows on the southern elevation to level 8.
4. Given the resolution to grant planning permission, whilst I acknowledge all other matters raised in representations, I need only concern myself with those matters on which the schemes differ as outlined above.
5. Therefore the main issues are:
- The effect of the proposed retail unit on the living conditions of occupiers of surrounding properties having specific regard to noise and disturbance;
  - The effect of the use of the proposed terraces on the living conditions of occupiers of London House in respect to noise, disturbance and privacy; and
  - The effect of the installation of new windows to the southern elevation of the existing level 7 and the southern elevation windows on level 8 on the living conditions of London House in respect of privacy.

## **Reasons**

### *The Retail Unit*

6. I observed at my site visit that the area was heavily trafficked, generally busy, and that background noise levels were high. Although no active retail units were present in the immediate vicinity of the appeal site, I saw a number of retail facilities only a short walk further along Aldersgate Street. I also noted that both London House and 200 Aldersgate, which are the 2 adjoining buildings to the south, have what appeared to be vacant shop units at the respective ground floors.
7. Retail uses are therefore an established part of the general activity of the area, and I am satisfied that the proposed additional retail use would not exacerbate or would lead to additional harm to the living conditions of occupiers of surrounding residential properties. While I accept that noise can be more intrusive at night time when background noise levels would likely be lower, the imposition of planning conditions could control delivery times for the retail unit and the building as a whole, as well as opening times. This would ensure that activity would be restricted from operating during more sensitive night time hours. The Council recommends operating hours of 0700 to 2300 should the appeal succeed. Having regard to this location and the level of activity, I am satisfied these hours would not harm the living conditions of occupiers of surrounding properties in respect of noise and general disturbance.

### *Terraces*

8. Because the appeal building is considerably deeper than the adjoining London House residential building, overlooking from its southern elevation windows towards its residents to some extent already occurs. The proposed western

terraced area on level 7, which would extend level with the southern elevation of the building, would be sufficiently distant from London House that it would not lead to harm to the living conditions to those occupiers in respect of privacy.

9. It is not clear from the drawings whether the proposed southern terrace at level 8 would be fully, partially or not at all accessible even though the area could be partially landscaped and therefore restricted to some extent. I observed very clearly that users would be within close proximity to, and be capable of directly overlooking properties in London House which would lead to significant harm to living conditions. I am not persuaded on the evidence before me that partially restricting this area from use would alleviate this harm that I have identified. I find therefore that this area should not be accessible at all times in the interests of privacy, and a planning condition could ensure this.
10. The appellant's Noise Impact Report (dated 14 August 2014), and the Supplementary Noise Assessment (dated January 2015), state that audible noise levels from the use of the terraces would not exceed daytime background noise levels, whilst would be marginally above evening background noise levels. In the absence of evidence to the contrary, I have no reason to doubt these findings. However, background noise levels are dominated by traffic movement and existing plant noise. The use of the terraces would introduce a different type of noise caused from social activity, which I find would be noticeably distinguishable from the background noise, and could be potentially disturbing to the occupiers of London House. Restricting access to the terraced areas closest to London House, namely southern terrace in level 8, as well as the southernmost part of the western terrace on level 7, would alleviate any significant harm to the occupiers of London House. A similar requirement is proposed to be imposed on a scheme that the Council has resolved to approve I see no reason why such a condition should not be imposed here.

### *Windows*

11. The scheme proposes to enlarge the height of the 5 southern flank windows furthest away from London House at the existing level 7. I saw from my site visit that while views were possible towards the properties at London House, it was not a direct line of sight, and the angle of overlooking was somewhat acute. I find that enlarging those windows would not increase the overlooking to the occupiers of London House.
12. The proposed level 8 southern elevation windows would include the addition of 3 full height windows in the southern elevation of the building positioned closest to the western elevation corner, and a further window positioned nearer to London House. However as level 8 would be positioned further back from the edge of the building I am not persuaded that these windows would be capable of causing harm to living conditions of occupiers of the London House in respect of overlooking. The window positioned nearer to London House would serve a service area and would be fitted with obscured glazing; which can be controlled by planning condition.
13. Accordingly, I find the proposed development, having regard to the scheme the Council has not opposed, and subject to the imposition of appropriate planning conditions, would not harm the living conditions of surrounding properties. It would not conflict with LP policies CS21 and DM 21.3, which state that existing housing and amenities will be protected by resisting uses which would cause

undue noise disturbance, and that all new development proposals should be designed to avoid overlooking and which seek to protect privacy.

### **Other Matters**

14. The appeal property lies close to the Smithfield Conservation Area, and both the Barbican Estate and the Barbican registered landscape which lie opposite the appeal site are Grade II and Grade II\* listed respectively. Neither main party expresses a view regarding any effect of the proposal on the character or appearance of the said Conservation Area and listed buildings. Moreover, I have not been provided with any relevant development plan policies relating to such matters. Nonetheless, I have had special regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and the listed buildings and features. In this respect, having regard to the size of the development and its relationship with the host property, as well as its siting and location within the site, I am satisfied that those interests would be preserved.
15. A signed s106 Agreement dated 30 April 2015 has been submitted which requires the appellant to make provisions for, amongst other things: local procurement, training, skill and job brokerage; to undertake necessary highway works; and to submit a travel plan, a delivery and servicing management plan, and an occupiers management plan (which includes management of the building and the terraces). In addition, appropriate contributions would be provided for affordable housing; as well as contributions for Crossrail through the Legal Agreement as well as through the Community Infrastructure Levy, which would also include administration and monitoring costs. These provisions are in line with LP policy CS4, which provides that planning contributions will be necessary to mitigate the impact of development, and the Corporation's Planning Obligations Supplementary Planning Document 2014 (SPD) which, amongst other things, specifies that affordable housing contributions for commercial development and a Crossrail contribution will be sought in respect of office development.
16. Paragraph 204 of the National Planning Policy Framework (the Framework), identifies that requests for planning obligations must be: (i) necessary to make the development acceptable in planning terms; (ii) directly related to the development; and (iii) fairly and reasonably relate in scale and kind to the development. In light of the evidence before me, I am satisfied the provisions are justified and that the s106 Agreement would meet all three tests.

### **Conditions**

17. I have considered the conditions suggested by the Council against Paragraph 206 of the Framework, and I have made changes necessary to comply with those requirements. The appellant has not disputed any of the suggested conditions.
18. I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. Conditions relating to materials and landscaping are necessary to safeguard the character and appearance of the area. Conditions to control demolition and construction traffic, and door opening controls are necessary to limit the amount of traffic on and maintain the free flow of the local highway network. Conditions in relation to rainwater recycling, green roofs and the need to submit an energy statement are necessary in the



interests of improving the sustainable development and in accordance with the aims of the LP; the latter negates the need for a separate BREEAM condition. Conditions requiring preventative measures to protect from vehicle attack, and air quality mitigation, are necessary in line with LP requirements. A condition requiring cycle parking and washing facilities are necessary to promote alternative and sustainable means of travel. A condition is necessary to ensure refuse areas remain available and to prevent refuse depositing on the local highway and causing a nuisance.

19. Conditions to control noise and dust during demolition and construction works; details of plant and machinery; flue extraction; obscure glazing; restrictions on the use of personal address equipment; and restriction of the use of the ground floor rear access; are all necessary in the interests of preventing harm to the living conditions of occupiers of surrounding residential properties. A condition restricting the retail operating hours and delivery times is also necessary in the interests of preventing harm to the living conditions of occupiers of surrounding residential properties, as I have discussed above.
20. Conditions controlling the use of the terraced areas are also necessary to protect the living conditions of adjacent occupiers. However as I have discussed above, because I am not persuaded that any part of the southern terrace on level 8 could be used without causing harm to the living conditions of the occupiers of London House in respect to privacy, and that noise levels from the use of the terrace would be noticeably audible and distinguishable from the general background noise levels, I have imposed alternative worded condition which would prevent accessible use of the southern terrace to level 8, and that preventative measures to restrict its use and that of the southernmost part of the western terrace to level 7 should be approved by The City before construction commences. The remaining accessible terraced areas should be restricted in its hours of use in the interests of neighbourly relations, and I have no reason to find against allowing the flexibility of an additional hour on isolated occasions. I find that the requirement for all such neighbours to be notified 14 days before an extended hours event is to occur is unjustified and onerous, however it is reasonable for the Council to be notified in advance of any such event and I have included this provision in the condition.
21. A condition requiring the threshold of all vehicular access points to be at the same level as the rear of the adjoining footway was neither explained nor justified. I consider the condition is not therefore warranted.

### **Conclusion**

22. For the reasons given above I conclude that the appeal should be allowed.

*R Allen*

INSPECTOR

## **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved drawings: A 1254 LO 0010; A 1254 EX 2000; A 1254 EX 2001; A 1254 EX 2002; A 1254 EX 2003; A 1254 EX 2004; A 1254 EX 2005; A 1254 EX 2006; A 1254 EX 2007; A 1254 EX 2008; A 1254 EX 2009; A 1254 EX 2015; A 1254 EX 2101; A 1254 EX 2102; A 1254 EX 2103; A 1254 EX 2104; A 1254 EX 2201; A 1254 EX 2202; A 1254 PA 1000; A 1254 PA 1001; A 1254 PA 1002; A 1254 PA 1003; A 1254 PA 1004; A 1254 PA 1005; A 1254 PA 1006; A 1254 PA 1007; A 1254 PA 1008; A 1254 PA 1009; A 1254 PA 1010; A 1254 PA 1011; A 1254 PA 1012; A 1254 PA 1013; A 1254 PA 1014; A 1254 PA 1020; A 1254 PA 1021; A 1254 PA 2000; A 1254 PA 2001; A 1254 PA 2002; A 1254 PA 2003; A 1254 PA 2004; A 1254 PA 2005; A 1254 PA 2006; A 1254 PA 2007; A 1254 PA 2008; A 1254 PA 2009; A 1254 PA 2010; A 1254 PA 2011; A 1254 PA 2015; A 1254 PA 2016; A 1254 PA 2101; A 1254 PA 2102; A 1254 PA 2103; A 1254 PA 2104; A 1254 PA 2200; and A 1254 PA 2201.
- 3) No development shall take place until details of all materials to be used on all external faces of the building to include masonry; soffits, handrails and balustrades; alterations to the retained west elevation; junctions with adjoining premises; integrated window cleaning equipment; and roof plant, flues and fire escapes shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details.
- 4) All unbuilt surfaces at ground floor level shall be landscaped, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority before the development is occupied. All hard and soft landscaping works shall be carried out in accordance with the approved details not later than the end of the first planting season following completion of the development. Trees and shrubs which die or are removed, uprooted or destroyed or become in the opinion of the Local Planning Authority seriously damaged or defective within 5 years of completion of the development shall be replaced with trees and shrubs of similar size and species to those originally approved, or such alternatives as may be agreed in writing by the Local Planning Authority.
- 5) No demolition works for the development hereby approved shall take place until details of a deconstruction logistics plan to manage all freight vehicle movements to and from the site; which also seek to minimise traffic movements; have been submitted to and approved in writing by the Local Planning Authority. Demolition shall be carried out in accordance with the approved scheme.
- 6) No construction works for the development hereby approved shall take place until details of a deconstruction logistics plan to manage all freight vehicle movements to and from the site; which also seek to minimise traffic movements; have been submitted to and approved in writing by the Local Planning Authority. Demolition shall be carried out in accordance with the approved scheme.
- 7) No doors or gates shall open over the public highway.

- 8) Notwithstanding the submitted plans and prior to the commencement of the development hereby approved, an energy statement which demonstrates sustainable measures and how carbon emissions have been minimised, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures identified to be incorporated into the building shall be carried out in accordance and thereafter retained.
- 9) Prior to the commencement of the development hereby approved, details of rainwater harvesting and grey water recycling systems for the building shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and thereafter be retained.
- 10) Prior to the commencement of the development hereby approved, details of the position and size of the green roof(s), the type of planting and the contribution of the green roof(s) to biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with those approved details and thereafter be retained.
- 11) Prior to the commencement of the development hereby approved, a scheme for air quality mitigation caused by the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details.
- 12) Prior to the commencement of the development hereby approved details of cycle parking and changing facilities and showers within the building shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of landscaping shall be carried out in accordance and thereafter retained.
- 13) Prior to the commencement of the development hereby approved, details of measures to resist structural damage from road vehicle attack or vehicle borne explosive device shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and thereafter be retained.
- 14) No demolition works shall take place until a scheme or staged schemes to protect the occupiers of surrounding properties from noise, dust and other environmental effects during demolition have been submitted to and approved in writing by the Local Planning Authority. The demolition shall be carried out in accordance with the approved scheme or staged schemes.
- 15) No construction works for the development hereby approved shall take place until a scheme or staged schemes to protect the occupiers of surrounding properties from noise, dust and other environmental effects during demolition have been submitted to and approved in writing by the Local Planning Authority. The demolition shall be carried out in accordance with the approved scheme or staged schemes.
- 16) Prior to the commencement of the development hereby approved, details of the plant and machinery to be installed on the building shall be submitted to and approved in writing by the Local Planning Authority. Following installation but before the new plant comes into operation

measurements of noise from the new plant must be taken and a report submitted to the Local Planning Authority demonstrating that the plant together with any associated ducting shall be 10 dB(A) or more below the lowest LA90, 15min at the nearest noise sensitive premises. All constituent parts of the new plant shall be maintained and replaced in whole or in part as often is required to ensure compliance with the noise levels approved by the Local Planning Authority.

- 17) Before any new plant is used on the premises it shall be mounted in a way which will minimise transmission of structure borne sound, in accordance with a scheme to be agreed in writing with the Local Planning Authority.
- 18) Prior to the commencement of the development hereby approved, a scheme which specifies the fume extract arrangements including materials and construction method and all ducts must terminate above roof level shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with those approved details and thereafter be retained.
- 19) Prior to the commencement of the development hereby approved, details of obscured glazing to those southern elevation windows to levels 7 and 8 as shown on approved drawing A 1254 PA 2103 shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be retained. The development shall be carried out in accordance with those approved details and thereafter be retained.
- 20) No part of the roof terrace that projects beyond the southern elevation of level 8 shall be accessible at any time. Prior to construction of the development hereby approved, details of how access shall be prevented at the southern elevation of level 8, and the southern end of the western terrace to levels 7 shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in full accordance with the approved details and thereafter be maintained and retained.
- 21) The remaining accessible roof terrace areas on levels 7 and 8 hereby permitted shall not be used or accessed between the hours of 21:00 and 08:00 on the following day and not at any time on Saturdays, Sundays or Bank Holidays, other than in the case of emergency, except on 5 occasions between May and September (inclusive), when such areas may be accessed additionally during the hours of 21:00 and 22:00 subject to giving 14 days notification to the Local Planning Authority. The roof terrace shall not be used or accessed at any time on Saturdays, Sundays or Bank Holidays, other than in the case of emergency.
- 22) No Personal Address (PA) systems, live or recorded music shall be used or played on any of the roof terrace areas hereby approved.
- 23) The rear pedestrian access hereby permitted shall not be used or accessed between the hours of 20:00 on one day and 07:00 on the following day, other than in the case of emergency.
- 24) No servicing of, or deliveries to any part of the premises shall be carried out between the hours of 23:00 and 07:00 on the following day from Monday to Saturday and between 23:00 on Saturday and 07:00 on the following Monday and on Bank Holidays.

- 25) The A1 use hereby permitted shall not be open to customers between the hours of 23:00 and 07:00 on the following day.
- 26) The refuse collection and storage facilities shown on the approved drawings hereby approved shall be provided and thereafter retained.