

PANDA HOUSE, 628 - 634 COMMERCIAL ROAD, LONDON

Appellant's Opening Statement & List of Appearances

Appearances

1. **Zack Simons** of counsel, instructed by Duncan Parr of Rapleys, will call:
 - (i) **Nick Collins** BSc (Hons) MSc MRICS IHBC - KMHeritage (heritage).
 - (ii) **Matthew Williams** BA (Hons), Dip Arch, MA, ARB, RIBA – founding director of Create Design Limited (design).
 - (iii) **James R Brown** BSc (Hons) MRICS – founder of James R Brown & Company Ltd (viability).
 - (iv) **Matthew Bowen** FRSA, Partner, Head of Residential Investment Research at Knight Frank (need).
 - (v) **Duncan Neil Parr** BA DUPI Dip TP FRGS MRTPI Cgeog MEWI - Planning Partner of Rapleys LLP (planning).

Introduction

2. This should have been a simple application.
3. The Council accepts there is an increasing demand for HMO-style accommodation in Tower Hamlets, and that high quality large-scale HMOs can help to meet this need.¹
4. It accepts that the existing building does not contribute positively to the St Anne’s Church Conservation Area.² It agrees that the area around the site includes a range of buildings which “vary in scale and architectural style”,³ which run along Commercial Road which is a “busy arterial road, which acts as a strategic link between East London and the City”.⁴ And the parties agree that:
 - (i) The site’s surroundings are entirely built-up, developed in close quarters, accommodating a range of land uses; and
 - (ii) The site is previously developed land and located within an urban area. The site is also in an accessible location relative to local services and public transport links.⁵ Indeed the site sits between PTAL ratings of 5 and 6a – i.e. very good and excellent. Which makes it one of the most sustainable locations for new housing not only in Tower Hamlets, but in Greater London as a whole.
5. An optimised development which provides more units of better quality and of a sort which the Council needs on a previously developed site in a highly sustainable location.
6. So why are we here?

¹ Tower Hamlets Plan, §9.69 at p.92.

² Council’s Statement of Case at §6.70.

³ SoCG §3.3.

⁴ SoCG §3.10.

⁵ SoCG §3.13-14.

There is a pressing need for new HMO units in this part of London

7. The main reason we're here is because of the Council's strange approach to policy D.H7(1)(a) in the Tower Hamlets local plan. New HMOs will be supported, so the policy says, where they meet an identified need. Simple language which can be simply applied.
8. But as we'll see, this Council has fallen over itself to over-complicate this policy, to add layer after layer of extra requirements to D.H7(1)(a) which it does not contain, and then to find the appeal scheme wanting against those extra requirements. Which aren't actually in the policy. We will explore this layering game in the cross-examination of Ms. Milentijevic.
9. In the end, as the plan makes clear and as Ms Milentijevic's proof accepts, the numbers are clear: there is both a demand and a need for this kind of accommodation in this part of the city. The Appellant has brought to bear a detailed demand assessment and market analysis from the leaders in this area, Knight Frank. The Council has not substantively rebutted this evidence. It shows that local need for HMO and co-living bedspaces isn't in the hundreds, it's in the thousands. Many thousands. And the shortfall is only getting worse year on year.
10. We are genuinely at a loss as to what more any applicant could do to seek to comply with the Council's over-complicated approach to what should have been a straightforward policy requirement.
11. In the end, it's a simple question with a simple answer. Is there a need for more HMO units in this part of London? Yes.

The scheme will not harm the special interest of the St Anne’s Church or Lowell Street Conservation Areas

12. Panda House is a 1960s/70s building that is currently used as a hostel.



6

13. The existing building has little historical value other than as representative of the poor architectural quality of the post-war redevelopment of the area. The parties agree it makes no positive contribution to the St Anne’s Church Conservation area.
14. As the Inspector will see on site, the reality of St Anne’s Church Conservation Area and the Lowell Street Conservation Area is that their character and appearance is compromised by the visible, immediately adjacent and directly experienced low architectural and urban quality of their settings.
15. Unfortunately, Panda House typifies the poor quality post-war development that replaced the older urban grain with buildings of bland generic style, in a form with materials that do

⁶ Front cover of the DAS.

not relate particularly to the surrounding area and is therefore makes a negative contribution to the character and appearance of the conservation area.

16. In contrast, the appeal scheme is a sensitive and high-quality piece of architecture:

Existing



*Proposed*⁷



17. The scheme refers to but does not slavishly imitate surrounding buildings and materials. It is sensitively set back from Commercial Road – with the obvious benefit that brings in terms of amenity and public realm. It sits comfortably in the heterogenous and evolving character of this conservation area. It ensures that the buildings within them – in particular the church – retain their significance. Indeed the scheme will be lower both than the church and Salton Square opposite.⁸

⁷ Both images taken from p.9 of the Create 14.10.19 “*Design Revisions Document*”.

⁸ See the view looking east along Commercial Road at p.27 of the Heritage Appraisal.

18. There won't be any harm to the historic interest of the conservation areas. But even if the Inspector were to find a small amount of less than substantial harm (noting that there are no allegations of substantial harm), it would easily be outweighed by the public benefits of providing much needed high quality accommodation in a very sustainable part of the city.

The scheme is already low-cost, and cannot viably support affordable housing

19. Treating HMO units of this kind as if they were typical C3 flats doesn't add up. Literally. Because the rents proposed are already low, i.e. below London Living Rents. And what is more, the Appellant has covenanted through a UU to charge no more than 80% of average local rents into the future. That is a binding commitment which can be enforced by the Council.

20. The hostel element of the scheme falls outside the Council's affordable housing policies in any event.⁹ Which leaves us with the HMO.

21. The Council's overall "headroom" – i.e. what it claims to be the exceedance of residual land value for a 100% market rent scheme over the agreed benchmark land value – is just under £4mil. As we'll see in cross-examination of Dr Lee, he's only been able to preserve that headroom after the collapse of his valuation of the hostel element of the scheme by applying a very, very unusual yield to the HMO values of the scheme.

22. To be clear, even if the Inspector is with Dr Lee on *every single other point*, but decides to apply the 4.25% yield to HMO rents which Dr Lee himself used in July 2020 rather than the 3.25% yield he had dropped to by December 2020, then the Council loses its headroom and the viability argument is over.

⁹ Dr Lee's proof at §4.8.

Conclusion

23. In this short opening, we do not cover the accessibility of cycle spaces, daylight and sunlight – which remain in dispute – or the range of other issues to which the Council no longer objects. We will cover them in closing. None support dismissing the appeal, either individually or cumulatively.
24. In the end, the Appellant is seeking permission to replace a low-quality building which detracts from the area with a high quality building in a very sustainable location which would make a greater contribution – qualitatively and quantitatively – to meeting a pressing need for specialist accommodation in Tower Hamlets. That replacement would accord with the plan read as a whole, and is supported by powerful material considerations.
25. For those reasons which we will expand on in evidence and in closing, we will ask you to allow the appeal.

ZACK SIMONS

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12th JANUARY 2021