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## Appeal Decision

Site visit made on 16 December 2020

**by D Szymanski BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> February 2021**

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**Appeal Ref: APP/U5930/W/20/3253877**

**Land to Rear of 13-15 Woodberry Way, Chingford E4 7DY**

- 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 Mr Spearing and Ms Woodthorpe-Browne against the decision of the Council of the London Borough of Waltham Forest.
  - The application Ref 191104, dated 29 March 2019, was refused by notice dated 16 April 2020.
  - The development proposed is described as the creation of 5 individually designed homes within a naturalist setting.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. A signed Unilateral Undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) and section 16 of the Greater London Council (General Powers) Act 1974 has been provided. The UU contains obligations in respect of a highway contribution, highway works, Construction Logistics Plan (CLP) monitoring, a Community Infrastructure Levy (CIL) contribution and provisions in relation to waste management. I have had regard to this in determining this appeal.

### Main Issues

3. The main issues are:
  - the effect of the proposed development upon the character and appearance of the area; and,
  - whether the proposed development would make adequate provision for the collection of refuse.

### Reasons

#### *Character and appearance*

4. The appeal site comprises two detached dwellings incorporating a mix of brickwork and rendered elevations, in a street scene of mostly similar age properties. In this part of Woodberry Way, the properties are characterised by generously sized dwellings that closely follow the alignment of the highway. The position of the dwellings is such that most of the built development is

concentrated towards the front of the plot, behind which are consistently deep rear gardens.

5. Some rear gardens include outbuildings, although those I could see were modestly sized occupying a small proportion of each plot. The large rear plots are predominantly open character with established landscape features and some trees towards the rear, stepping down the hill and integrating with the natural sylvan character of the Epping Forest Special Area of Conservation (the SAC). The consistent plot arrangement and long rear garden space forms a distinctive, strong, and positive characteristic of the area, to which the wide appeal site plots make a significant positive contribution.
6. The development would result in the subdivision of the existing open garden spaces into comparatively short perpendicular plots. There would be a considerable urbanisation and intensification of development from five sizeable single and two storey detached polished concrete, glass and cedar flat roofed dwellings, grass grid access road, footways, significant lengths of fencing, and bike and refuse storage, hardstandings and vehicles. This amount and intensity of rear of plot development perpendicular to existing plot layouts would be highly incongruent. It would be significantly and detrimentally at odds with the strong, consistent and established urban grain of surrounding dwellings and the character and appearance of the area.
7. The full finished contours across all the appeal site are not clear. The sizeable flat roofed angular buildings with wildflower roofs would be up to approximately 6m above ground level. The significant height, scale and bulk of the buildings would be highly visible from a number of neighbouring properties as a comprehensive rear of plot development. Although the full details of the gates are not before me, the wide front access would be likely to allow some visibility into the site, making aspects of the development discernibly visible from the street scene. There may also be limited visibility, at least in the short term, from the path through the Epping Forest close to the rear appeal site boundary.
8. The development would be compliant with some aspects of the advice in the Supplementary Planning Document Urban Design (2010) (the SPD) and some aspirations of Living with Beauty report (January 2020). It illustrates some good design characteristics such as the combination of materials, limiting the massing of elevations, wildflower green roofs, screens and planted boundary treatments, and the internal living spaces.
9. However, I do not share the view the development would be of an exceptional quality. This is because part of the consideration of such matters includes the effect of a development upon the character and appearance of the area, which I find to be significantly harmful. The detailed hard and soft landscaping proposals and suggested conditions in respect of design and materials, would not sufficiently mitigate the effects given its scale, bulk, layout, height, and appearance, as a highly incongruent and isolated example of a comprehensive back land residential development.
10. For the reasons set out above, the development would be significantly harmful to the character and appearance of the area. It would be contrary to Policy CS15 of the Waltham Forest Local Plan Core Strategy (2012) (the CS) which requires development should respond positively to local character and context and give strong recognition to local distinctiveness including urban grain and street pattern. It would conflict with Policy DM29 of the Waltham Forest

Development Management Policies Local Plan (2013) (the DMPLP) which expects development should reinforce and enhance its local context and character, taking into account patterns of development and urban form.

11. The development conflicts with Policy 7.4 of the London Plan (2016) (the LP) in so far as this expects development to have regard to the pattern and grain of existing spaces and contribute positively to the relationship between urban structure and natural landscape features. The development would also result in a conflict with paragraph 122d) of the National Planning Policy Framework (2019) (the Framework) which expects decisions to take into account the desirability of maintaining an area's prevailing character including residential gardens. It would also conflict with the advice in section 5 and Appendix 3 of the SPD, which expects, amongst other things, development to successfully integrate with the surrounding context and seeks that development reinforces locally distinctive patterns of development.
12. The development may be compliant with some criteria of Policy CS15 of the CS, Policy DM29 of the DMPLP, Policy 7.4 of the LP and the Framework, insofar as it exhibits some distinctiveness, some sense of a place in its own right, and has a design rationale based upon some characteristics of the appeal site. However, for the reasons set out above, it would also be inherently and significantly harmful to the established character and appearance of the area. The compliance with the other aspects of the policies, does not mitigate or outweigh the harm set out.
13. The Council's first reason for refusal refers to Policy DM4 of the DMPLP. While paragraph 5.3 of the justification text seeks to resist dwellings in back gardens, the policy text relates to living conditions. Therefore, it is less relevant to this main issue than the policies I have referred to above. Policy DM30 of the DMPLP primarily relates to inclusive design and accessibility principles. Therefore, it is of limited relevance to this main issue. Reference has also been made to the Characterisation Study (2009). However, this is not before me.

#### *Refuse and recycling*

14. Policy CS6 of the CS and Policy DM32 of the DMPLP require new development provides accessible, adequate, and well-designed internal and external facilities for the storage and collection of refuse and recycling. The road layout would not ensure an adequate width for the Council's refuse vehicles to traverse to all the properties, and there are concerns about the vehicular carriageway remaining free of vehicles.
15. It is intended that household waste collection would be undertaken by a private waste management operator, which would access well designed and conveniently located bin stores to the front of each plot. The appellant's plan indicates the requirements for a DB32 refuse vehicle which could fit along the length of the new carriageway and turn in the turning head. This shows the carriageway of is of an adequate width to accommodate a private waste management vehicle.
16. If the private collection arrangement were not pursued, based upon the evidence before me, future occupiers could wheel bins to the gate within 30m of their bin stores for the Council's operatives to walk up to 25m from Woodberry Way for collection. This would be in line with the requirements in the Waste and Recycling Guidance for Developers (June 2019) (the WRGD).

Subject to the imposition of planning conditions the stores could be built to be able to meet the Council's capacity and design requirements in the WRGD. Having regard to this, I am satisfied that the proposals would also meet the requirements of Policy CS6 of the CS and Policy DM32 of the DMPLP.

17. For the reasons set out above the development would provide satisfactory waste management arrangements in compliance with Policy CS6 of the CS and Policy DM32 of the DMPLP. These require development provides adequate accessible facilities, to ensure development does not result in harm to the character and appearance of the area or living conditions for neighbouring or future occupiers. It would also be compliant with advice at 5.9.9 of the SPD (2010) insofar as this highlights the careful consideration to be given to refuse and recycling collection which should be integral to the design of a scheme.

### **Other Matters**

18. The Council has set out no objection in respect of the living conditions to neighbouring occupiers. However, as I am dismissing this appeal for other reasons I have not considered this matter in further.
19. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require that where a plan or project is likely to result in a significant effect on a European site (in this case the SAC), a competent authority is required to make an Appropriate Assessment (AA) of the implications of that plan or project on the integrity of the European site in view of its conservation objectives. Any likely significant effects arising from a development need to be considered alone and in combination with other development in the area, adopting the precautionary principle.
20. If constructed, the appeal scheme would facilitate a permanent increase in the number of people living within a short walk and drive of the SAC. Natural England's interim advice (March 2019) identifies development within the 0–3km zone of influence constitutes a likely significant effect as occupiers would access the SAC for recreational purposes. NE was consulted upon the application. It advised the development needs to provide appropriate financial contributions for a Strategic Access Management and Monitoring Strategy (SAMMS).
21. I do not have a planning obligation before me securing a financial contribution to SAMMS or other alternative mitigation measures. The appellant has offered to insert this requirement into the UU to secure a payment in accordance with the approved mitigation scheme. Based upon the evidence before me the contribution would be necessary to mitigate the likely significant effects of the development upon the SAC. Were a contribution to have been secured, this would have been a neutral matter, attracting neutral weight.
22. There is a suggestion of protected species in the vicinity of the appeal site by interested parties. However, based upon the substantive evidence that is before me in the Preliminary Ecological Assessment (PEA), subject to the imposition of suitable planning conditions in respect of matters such as construction methods, further surveys, supervision, and habitat creation, the development would not be likely to result in harm to protected species or habitats on the appeal site.

23. The PEA makes reference to the provision of log and dead wood piles as habitat. However, the scale, exact location, the nature of the benefit and how their long-term retention and any management requirements would be secured and monitored, are not clear. In the longer-term the development might result in some small biodiversity enhancement, however, the evidence before me suggests this would be a small benefit.
24. The UU contains obligations relating to a highway contribution, highway works, CLP monitoring, a CIL payment and waste management. The UU states the owner is satisfied the obligations are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. Therefore, they would be necessary to secure a policy compliant development. The £30,000 contribution to traffic and highway improvements, might constitute a benefit, however, the effects of works from this contribution would be likely to be small and attract a small amount of weight in favour of the scheme. The evidence suggests the other obligations are necessary specifically to mitigate the effects of the development on local infrastructure, and there is no evidence they would represent an overall benefit.

### **Planning Balance**

25. The Council's Housing Delivery Test (HDT) Action Plan (2019) (the AP) was adopted to be proactive in the light of the potential for future increased housing need having regard to the Council's Objectively Assessed Housing Need and future adoption of the Draft London Plan. The target in the national standardised methodology may also affect projected needs. However, the evidence before me does not show a failure to either meet the HDT or requirement for a 5 year housing land supply. There is no substantive evidence that the presumption in favour of sustainable development in paragraph 11d)i) of the Framework applies.
26. The evidence before me does not demonstrate there would be overall net benefits in terms of renewable energy generation. Measures to decrease resource and energy consumption would reduce and partially mitigate the environmental impacts of the development. These are therefore more of a neutral matter than a benefit. If subject to suitably worded planning conditions, the development was to be compliant with policies in respect of matters such as construction logistics, parking and accessibility, and surface water drainage, these would all be neutral matters that attract neutral weight.
27. The development gains some support from paragraphs 59, 68, 117 and 118 c) and d) of the Framework. These seek to significantly boost the supply of homes, recognise the benefits of small sites, seek to make more efficient use of land, and give great weight to the benefits of suitable sites within existing settlements. However, given the harm I have found in respect of character and appearance, the site cannot be considered a suitable site for this development.
28. The development would result in a modest social benefit by providing five dwellings with generous living space, well located to access some shops, services, facilities, and public transport. There would be a limited positive economic benefit during scheme preparation and construction. In the short term this would be particularly beneficial in-light of the current Covid-19 pandemic. Once complete there would be a small sustained benefit to the local

economy. There may also be a small benefit in respect of traffic and highway improvements and a small longer-term ecological benefit. In combination, the environmental, economic, social and highway benefits advanced, and the policy compliance attracts limited weight in favour of the scheme.

29. However, the proposed development would result in a sizeable comprehensive back land residential development, and for the reasons set out above would be significantly harmful to the character and appearance of the area. This matter attracts significant weight against the development, and it significantly outweighs the benefits and policy compliance of the development.

### **Conclusion**

30. The proposed development would be contrary to the development plan and the Framework as a whole, and there are no other considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

*Dan Szymanski*

INSPECTOR