



Appeal Decisions

Hearing held on 18 April 2023

Site visits made on 27 February 2023 and 19 April 2023

by Peter Rose BA MRTPI DMS MCMI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2023

Appeal A Ref: APP/U5360/W/20/3258476

Flat 34, Finn House, Bevenden Street, Hackney, London, N1 6BL

- 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 Long Term Reversions (Torquay) Limited against the decision of the Council of the London Borough of Hackney.
 - The application Ref: 2018/4414, dated 26 November 2018, was refused by notice dated 20 July 2020.
 - The development proposed is described as 'proposed 6th storey extension to provide 9 new residential units and associated development' (**Scheme A**).
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Appeal B Ref: APP/U5360/W/22/3291198

Finn House, Bevenden Street, Hackney, London, N1 6BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Jamie Milne, RG Airspace Development Ltd against the Council of the London Borough of Hackney.
 - The application Ref: 2021/2547, is dated 16 August 2021.
 - The development proposed is described as 'roof extension to the existing building to provide nine new homes, of which four are one-bed and five are two-bed, cycle parking and refuse provision' (**Scheme B**).
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Appeal C Ref: APP/U5360/W/22/3291203

Finn House (Western Block), Bevenden Street, Hackney, London, N1 6BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Jamie Milne, RG Airspace Development Ltd against the Council of the London Borough of Hackney.
 - The application Ref: 2021/2553, is dated 16 August 2021.
 - The development proposed is described as 'roof extension to the existing building to provide nine new homes, of which four are one-bed, four are two-bed and one is a three-bed. Reconfiguration of ground floor entrances and removal of refuse chutes to enable the provision of two lifts, cycle parking and refuse provision' (**Scheme C**).
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Decisions

1. **Appeal A** is dismissed.
2. **Appeal B** is allowed and planning permission is granted for roof extension to the existing building to provide nine new homes, of which four are one-bed and five are two-bed, cycle parking and refuse provision, at Nos 34-88 Finn House, Bevenden Street, Hackney, London, N1 6BL, in accordance with the terms of

the application Ref: 2021/2547 dated 16 August 2021, and subject to the conditions set out in the attached Schedule.

3. **Appeal C** is allowed and planning permission is granted for roof extension to the existing building to provide nine new homes, of which four are one-bed, four are two-bed and one is a three-bed, and reconfiguration of ground floor entrances and removal of refuse chutes to enable the provision of two lifts, cycle parking and refuse provision, at Nos 34-88 Finn House, Bevenden Street, Hackney, London, N1 6BL, in accordance with the terms of the application Ref: 2021/2553, dated 16 August 2021, and subject to the conditions set out in the attached Schedule.

Application for costs

4. An application for costs has been made by RG Airspace Developments Ltd against Hackney Council. That application is the subject of a separate Decision.

Preliminary matters

5. All three proposals relate to the same site, but its address as stated on the respective application forms is not consistent. The statement of common ground¹ confirms the application site to be the western block of Finn House (Nos 34-88), and that is the basis upon which these appeals are considered.
6. The names of the applicant and appellant as stated are also not consistent across the submissions. The statement of common ground indicates the appeals to have been lodged by RG Airspace Developments Ltd. Following discussions at the Hearing, the appellant has confirmed the appellant for **Scheme A** to be Long Term Reversions (Torquay) Limited, who are the freeholders. The appellant for **Scheme B** and **Scheme C** is RG Airspace Developments Ltd.
7. **Scheme A** was revised prior to the Council's decision. This reduced the number of units proposed to eight and not as originally stated on the application form and set out in the banner above.
8. **Appeal B** and **Appeal C** involve applications which have not been subject to formal determinations, and the authority has instead presented putative reasons for refusal upon which its cases are based.
9. The appeals are supported by unilateral undertakings made by the appellant pursuant to section 106 of the Act (the undertakings), and dated 27 April 2023 in relation to **Appeal A**, 5 May 2023 in relation to **Appeal B**, and 10 May 2023 in relation to **Appeal C**. The Council does have issues with the terms of the undertakings in relation to a possible review mechanism for affordable housing contributions. It also raises some detailed issues in relation to car-free development, payment of monitoring costs, and in relation to Clause 23 of each document (liabilities under the deed). Otherwise, the undertakings are not in dispute.
10. As part of the appellant's cases, revised drawings were presented of the proposals but which did not form part of the submissions at the time of the Council's determination of the development set out in **Appeal A**, and were not formally before the authority at the expiry of the determination periods for the

¹ Signed and dated 5 and 6 April 2023, and as confirmed by the appellant's subsequent Land Registry details

applications now comprising **Appeal B** and **Appeal C**. The drawings have also not been subject to any formal publicity preceding the Hearing.

11. The revised drawings encompass significant differences from the original submissions, particularly in relation to matters of refuse/waste and cycle storage. Their acceptance as revised application drawings could therefore be prejudicial to local interested parties hitherto not afforded an opportunity to comment. Nevertheless, the submitted drawings are accepted for evidential purposes as material considerations relevant to the merits of the cases.
12. Whilst not accepting the revised drawings as the bases for my decisions, the main parties agreed at the Hearing that appropriate conditions could be attached to the decisions if the appeals were to be allowed. These would disapply all previous aspects of refuse/waste matters, cycle storage and rear landscaping from the terms of any decision and instead require fresh submissions to be made and be approved in those particular regards prior to the commencement of any development. This was explained to interested parties present and, given future publicity and subsequent assessment by the authority of any representations and in advance of any formal determinations of those matters, I am satisfied no prejudice would be caused.
13. The Council's decision forming the basis of **Appeal A** was made with reference to a now superseded development plan. The applications subject to **Appeal B** and **Appeal C** were considered subsequently and with reference to a new Local Plan² (the Local Plan) and a newly adopted version of the London Plan³ (the London Plan). All three appeals are now considered on that superseded basis.

Main issues

14. **Appeal A, Appeal B** and **Appeal C** (each corresponding to **Scheme A, Scheme B** and **Scheme C** respectively) involve similar development of the same site. Following pre-Hearing discussion between the Council and appellant, the matters remaining in dispute narrowed considerably⁴. Various of the Council's previous concerns set out in its decision notice for **Appeal A** and in its putative reasons for refusal in **Appeal B** and in **Appeal C** were not pursued at the Hearing, either due to a review of their merits, or because of the satisfactory prospects for planning conditions and/or planning obligations.
15. The main issues remaining in contention are:
 - the possible need for lift access in relation to **Scheme A** (and, by implication, whether any possible similar issue may arise for **Scheme B** and where lift access is also absent);
 - the effect of each scheme upon local living conditions arising from proposed arrangements for refuse storage and waste management, and with particular regard to the amenity of adjoining ground floor residents;
 - whether or not the schemes would make adequate provision for cycle storage; and,
 - whether or not a review mechanism is appropriate in relation to affordable housing.

² Hackney A Place for Everyone, Hackney Local Plan 2033 Strategic Planning Adopted July 2020

³ Mayor of London's The London Plan, The Spatial Development Strategy for Greater London March 2021

⁴ See previous reference to the statement of common ground

Reasons

Background

16. The appeal site comprises a five-storey block of flats located on the southern side of Bevenden Street. The site lies within an immediate area of mixed but predominantly residential use.
17. Front access to the existing flats is provided at ground floor, and unenclosed staircases serve the flats on floors above. Refuse chutes extend up the front of the building. To the rear of Finn House there is an area of hardstanding that provides incidental parking space, and some existing amenity space accommodating limited planting, and areas of general circulation. This space is also enclosed by the backs of dwellings in Haberdasher Street.
18. The proposals seek to add, in alternative forms, a further floor of accommodation to Finn House, and with accompanying works to the rear involving creation of new refuse and cycle storage facilities, and a new landscaped amenity space.
19. **Appeal B** involves a similar proposal to **Appeal A**. The principal distinction is a different number and mix of units, with **Appeal B** involving no three-bedroom units. **Appeal C** also has similarities to both. It would replace the existing refuse chutes with lifts and includes only one three-bedroom unit, whilst **Appeal B** only comprises one-bedroom and two-bedroom dwellings and no lift.

Lift access

20. **Appeal A** would involve eight dwellings, of which three would comprise three-bedroom units and be accessed from ground level only via the existing stairs. Whilst other possible residential occupation could transpire, the three-bedroom units could well serve as family accommodation with attendant comings-and-goings involving children and a need for prams, buggies and similar.
21. The successive flights of stairs which would need to be climbed in order to reach the top of the building would make for a relatively arduous and physically demanding trek, both for residents and for visitors, and particularly when accompanying young children. This factor, coupled with the number of larger family-sized units to be provided, render **Scheme A's** absence of lift access harmful to the living conditions to be afforded by those dwellings.
22. I therefore consider **Scheme A** would be contrary to Policy D5 of the London Plan and to Policy LP1 of the Local Plan. These seek, amongst other things, for development to achieve the highest standards of accessible and inclusive design. The deficient access would also have implications for the interests of persons with protected characteristics pursuant to the Equality Act 2010, and for the accompanying Public Sector Equality Duty (PSED). This would include impediments to access for persons qualifying with protected characteristics by reason of age and disability.
23. **Scheme C** would provide lift access and the conflict incurred in **Appeal A** does not arise, but **Scheme B** would still necessitate use of stairs. Whilst **Scheme B** would involve no three-bedroom units, it would still not afford the same quality of access for residents and visitors as would be achieved through availability of a lift. To that extent, **Scheme B** would also involve some conflict with the

development plan and the PSED, but of a lesser degree than arising in **Appeal A**, as no larger family accommodation would be provided.

Living conditions (as relating to refuse storage and waste management)

24. Existing arrangements for refuse storage are less than satisfactory. Aside from issues of capacity, the chutes at the time of my visit did not operate, and rubbish is placed at the front of the block prior to collection. This practice appears unsightly, and particularly at times of overspill. Some further bins occupy more exposed positions on the footpath to the front of Finn House, both partially blocking pedestrian access and similarly making for a cluttered appearance.
25. The proposals presented to the Hearing would create a new and consolidated bin storage area to the rear for use by both existing and proposed residents. The storage area would be part of a wider landscaped amenity space and which would replace existing poor quality trees and overshadowed grassed areas. The new space would seek to integrate and minimise the potential impacts of the refuse and cycle storage as one purpose-designed space/facility. The proposals would include associated management arrangements for wheeling of bins to the front for collection, and for their return to the rear.
26. A facility to the rear could involve more walking for residents. Bin location and movement would also be in relatively close proximity to ground floor units, and to dwellings in Haberdasher Street.
27. Although there are no refuse facilities to the rear, there is an adjacent parking area from which not dissimilar domestic noise and occasional comings-and-goings can be expected. The likely frequency and duration of any noise or odours from the new facility would also be set within the ambient context of a dense urban setting where such relatively minor occurrences may not be uncommon or unduly discernible. Food bins would also be sealed to minimise odours.
28. On the basis of the revised layouts submitted to the Hearing, the Council is satisfied that the level of refuse and recycling provision as proposed would meet the volume required for existing and proposed residents of the application site. The Council considers that, in principle, a revised design and layout could be achieved such as to minimise disturbance and achieve an efficient use of the space in conjunction with cycle storage and planting. I agree.
29. Additionally, clear townscape and highway benefits would arise from the potential re-siting of existing large refuse facilities occupying prominent positions to the front, and from their removal as obstructions to the footpath.
30. I therefore consider the schemes could, in principle, make adequate provision for storage of refuse and waste management necessary to serve existing and proposed flats and without undue harm to local living conditions. The schemes would thereby accord with Local Plan Policy LP2 and with Policy D14 of the London Plan. These seek, amongst other things, to ensure all new development is appropriate to its location and is designed to ensure there are no significant adverse impacts on the amenity of occupiers and neighbours, and to mitigate and minimise the impacts of noise.

Cycle storage

31. On the basis of the revised layouts submitted to the Hearing, the Council considers that, in principle, a revised design and layout could be achieved of the area to the rear such as to provide an adequate number of cycle stands and of a satisfactory form. I agree.
32. As with refuse, any negative impact of comings-and-goings arising from the cycle store would be limited and offset by the wider convenience of the new arrangements. It would also offer encouragement for residents towards sustainable transport and benefits for healthy living etc.
33. I therefore conclude the schemes would accord with Policies LP2 and LP42 of the Local Plan and which seek to promote sustainable transport by prioritising walking and cycling.

Affordable housing

34. Policy LP12 of the Local Plan states that the Council will plan to deliver a minimum of 1,330 homes per year up to 2033. Accompanying measures include encouraging development on small sites and increasing the supply of genuinely affordable homes. London Plan Policy H1 similarly sets Hackney a 10-year housing target of 13,280 net completions.
35. The National Planning Policy Framework (the Framework) explains how, to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed.⁵
36. London Plan Policy H4 sets a strategic target for 50 per cent of all new homes delivered across London to be genuinely affordable, and explains how Boroughs may also require affordable housing contributions from residential development of less than ten units in accordance with Policy H2.
37. Local Plan Policy LP13 identifies the need for a contribution equivalent to 50% of housing delivered as affordable housing in schemes of up to nine units, but subject to viability. The appellant's evidence indicates the limited viability of the schemes.⁶ The update to the appellant's viability submission further advises that, due to market conditions, viability has deteriorated, and that the schemes cannot viably sustain an affordable housing contribution in any form. Nevertheless, an affordable housing contribution of £60,000 is still proposed through the undertakings, a figure reflecting adjusted profit levels and Planning Practice Guidance (the Guidance) parameters.
38. Given time constraints and the limited information available, the Council considered it would be reasonable in this instance to accept a lower contribution in lieu than that expected by Policy LP13. In conjunction with the Council's SPD⁷, the requirement is for a contribution in lieu of £60,000 per new unit. The Council's acceptance was subject to a late-stage review as apparently agreed in the statement of common ground⁸, but subsequently withdrawn.

⁵ Paragraph 60

⁶ Further viability update dated 18 February 2023 by James R Brown & Company Ltd

⁷ S106 Planning Contributions Supplementary Planning Document July 2020

⁸ Paragraph 8.4

39. The Council considers a review to be necessary to ensure the schemes would be delivering the maximum affordable housing contributions consistent with Policy LP13. The appellant maintains there is no policy requirement relating to schemes of this size. Policy LP13 states that late-stage reviews will apply to major development and the appeal proposals cannot be formally so defined.
40. Policy LP13 specifically allows for schemes of up to nine units to provide affordable housing subject to viability. It states that new development must maximise opportunities to supply genuinely affordable housing on-site, and indicates how the Council will seek the maximum reasonable amount of affordable housing, subject to viability and site context.
41. I do not accept there is necessarily no policy or other requirement for further reviews in these circumstances. Indeed, the supporting text to Policy LP13 expressly acknowledges that small schemes may also be subject to affordable housing review mechanisms.⁹
42. Given the shortfall between the contributions expected by Policy LP13 and that offered, allied to the identified importance of affordable housing as underlined by both the development plan and Framework, I consider there is sufficient justification for the schemes to be subject to late-stage reviews.
43. I therefore conclude the proposed schemes, whilst making a contribution to affordable housing, cannot be said to maximise opportunities to supply genuine affordable housing as expected by Policy LP13. The schemes give rise to relatively moderate conflict with the development plan in that regard.

Other material considerations

Principle of development

44. The Framework seeks to support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, upward extensions should be allowed where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed, and can maintain safe access and egress for occupiers.¹⁰
45. The schemes would also be consistent with various other aspects of national policy. The Framework requires that substantial weight be given to the value of using suitable brownfield land within settlements for homes.¹¹
46. The Council raises no concerns in relation to the principle of development.

Character and appearance

47. Bevenden Street is an area of mixed character and appearance and includes various relatively recent developments of contrasting designs. The vicinity does not have one particularly distinctive character or overall appearance but instead displays significant and interesting variations in form and detailed design.

⁹ Paragraph 7.7

¹⁰ Paragraph 120

¹¹ Paragraph 120

- 48. The extensions would not be of excessive height relative to the surroundings, would seek to broadly reflect the design and features of the appeal site, and no objection is raised by the authority.
- 49. The appellant has also provided further details of proposed brick matching to ensure development would be consistent with the building's existing elevations.
- 50. I have no reason to conclude local character or appearance would be harmed. The schemes would thereby accord with Policy LP1 of the Local Plan and Policy D1 of the London Plan. These seek to ensure, amongst other things, that proposals respond to local character and context, and are compatible with the existing townscape.

Heritage

- 51. There are a number of listed buildings in the vicinity of the site, and Pitfield Street Conservation Area is also nearby. No objection is raised by the authority in these regards.
- 52. I have no reason to conclude the significance of these designated assets, and including their settings, would be harmed. The schemes would thereby accord with Policy LP3 of the Local Plan which seeks to ensure, amongst other things, that proposals preserve or enhance the character and appearance of Conservation Areas, and that the settings of listed buildings are respected.

Trees

- 53. None of the trees earmarked to be removed to the rear are protected and none appear to be of particular intrinsic quality. Replacement planting is proposed as part of the new landscaped area.
- 54. The proposal would thereby accord with Policy LP51 of the Local Plan which states that removal of non-protected trees will not be supported unless adequate replacement planting is proposed. Policy G7 of the London Plan similarly requires development proposals to ensure, amongst other things, that, if planning permission is granted that necessitates the removal of trees, there should be adequate replacement based on the existing value of the benefits of the trees removed.

Biodiversity

- 55. The proposals would include measures to achieve biodiversity gain.¹² The schemes would thereby accord with Policy LP47 of the Local Plan and Policy G5 of the London Plan. These seek, amongst other things, for all development to protect and, where possible, enhance biodiversity leading to a net gain, and to include measures such as high-quality landscaping and green roofs.

Car-free housing

- 56. The schemes are proposed as car-free development to ensure there would be no adverse impact upon local traffic conditions. This would be addressed by the unilateral undertakings. Whilst the wording of the obligations departs from the authority's standard text, I do not consider this inhibits the effectiveness of those commitments. The schemes would also involve no loss of existing parking space to the rear.

¹² As set out in the Finn House Biodiversity Net Gain Design Note prepared by AESG, dated 23 February 2023

57. The proposals would thereby comply with Policy LP45 of the Local Plan and Policy T6 of the London Plan and which, amongst other things, seek to reduce car usage and ensure that car-free development should be the starting point for all development proposals in places, such as this, that are well-connected by public transport.

Carbon offsetting

58. The undertakings include an agreed contribution to carbon offsetting. The schemes would thereby accord with Local Plan Policy LP55 and Policy SI 2 of the London Plan and which, amongst other things, seek to ensure that all developments actively mitigate the impact of climate change and minimise greenhouse gas emissions.

Fire safety

59. This is a technical matter largely to be addressed through the Building Regulations. The appellant has confirmed that, outside of the planning process, it has sought advice from a fire safety engineer who has confirmed the schemes can be delivered in accordance with all relevant requirements.
60. Should the schemes otherwise prove acceptable in the overall planning balance, I consider it would be appropriate to impose a pre-commencement condition to ensure a Fire Safety Statement consistent with the terms of Policy D12 of the London Plan has been submitted to and been approved by the Council, and for the development to be undertaken and occupied in accordance with the details as approved.
61. Whilst Policy D12 refers to Fire Statements in the context of major development, such a statement would be expedient in relation to these particular schemes given the high-level location of the development and its proposed siting above a significant concentration of existing, and significantly older, residential accommodation.

Other matters raised by interested local parties

62. It is not disputed by the main parties that the flats meet internal space requirements set out within the Nationally Described Space Standards and the London Plan.
63. In relation to **Scheme C**, head height of the lifts would in part be determined by the existing constraints of the building. The appellant has undertaken consultations with lift manufacturers and is confident that lifts can be provided to accord with the relevant parts of the Building Regulations.
64. Detailed implications for floor acoustics and drainage would be addressed through the Building Regulations, and the appellant expects to achieve significantly improved insulation than existing.
65. From the evidence submitted, I am satisfied the schemes would not give rise to significant harms in relation to daylight and sunlight, to energy efficiency, or regarding possible flooding. Matters of structural integrity would also be addressed through the Building Regulations.
66. The undertakings include a commitment not to charge existing residential occupiers the costs of provision of the new refuse and cycle facilities. Similarly,

the Inquiry was advised that existing residents would benefit from, but not incur the installation costs of, the lifts.

67. There may be a number of other management implications for existing residents of the block. These have not been identified to have any significant bearing on the planning merits of the schemes and instead would fall to be considered under Landlord and Tenant legislation or similar.

Other aspects of the unilateral undertakings

68. The undertakings make various commitments to mitigation additional to matters of refuse arrangements, car-free development, affordable housing and carbon offsetting as already indicated. For each scheme this includes a commitment to the construction industry's Code of Considerate Practice, and contributions to monitoring costs.
69. The mitigations as proposed generally accord with most aspects of the Council's SPD. The approach set out in the undertakings is also broadly consistent with the expectations of the Guidance and Framework.
70. The Council is concerned that payment of monitoring costs would be made prior to implementation and not on completion of the undertakings, but I consider that timescale to be reasonable. I have no particular issues regarding the wording of Clause 23 within each deed.
71. I am satisfied with the form and content of the undertakings as deeds. I find the undertakings to be compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and to be generally fit-for-purpose. Accordingly, I take into account the commitments and accompanying terms as considerations of my decision.

Tilted balance

72. The Council did not seek to demonstrate at the Hearing that it enjoys a five-year supply of deliverable housing sites, and no evidence has been provided to this effect. Accordingly, the presumption in favour of sustainable development is engaged through the tilted balance under paragraph 11.d).
73. It then follows as an important material consideration that paragraph 11.d) expects proposals to be approved in such circumstances unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Overall planning balances

Development plan as a whole

74. It follows from my assessment of the main issues, that the policies which are most important for determining these appeals are Local Plan Policies LP1, LP2, LP12, LP13 and LP42, and London Plan Policies H2, H4, H12, D5, D14 and T6. This basket of policies is substantively up-to-date. Against the policies, I have identified various degrees of conflict as indicated. I have also identified a range of other relevant policies which either would not be breached, or with which the schemes would accord.

Appeal A

75. Given its shortcomings in terms of access, and lesser conflict in relation to the absence of a late-stage review of its affordable housing contribution, I conclude that **Scheme A** would not accord with the development plan when read as a whole.
76. Relative to the tilted balance, the proposal would make a modest contribution to local housing requirements, would confer some wider benefits beyond the new dwellings relating to refuse and cycle storage, and would yield some economic benefits in terms of construction and for the local economy post-occupation. The significance of the scheme's shortcoming in relation to access and the relatively moderate conflict in relation to the absence of a late-stage review are such that I conclude those adverse impacts would still significantly and demonstrably outweigh the benefits identified, when assessed against the policies in the Framework taken as a whole.
77. I also do not conclude any other material considerations, and including any other national policies set out in the Framework, collectively out-weigh the conflict with the development plan as identified.
78. **Scheme A** therefore conflicts with the development as a whole and other material considerations do not indicate a decision other than on those terms.

Appeal B

79. Notwithstanding the absence of lift access, I attach less weight to this shortcoming in assessing **Scheme B** as, unlike **Scheme A**, the proposed housing mix would exclude larger family accommodation and would be similar to that existing. The harm arising to living conditions would thereby be significantly reduced and means the adverse impacts would not significantly and demonstrably outweigh the benefits identified. In terms of the development plan, the lesser conflict in relation to access coupled with the absence of a late-stage review are also out-weighed by the collective importance of other policies, not least in delivery of much-needed housing.
80. **Scheme B** therefore accords with the development as a whole and other material considerations do not indicate a decision other than on those terms.

Appeal C

81. I conclude the relatively moderate conflict in relation to the absence of a late-stage review means the adverse impacts would not significantly and demonstrably outweigh the benefits identified, and which include lift access for existing residents. Relative to the development plan, the absence of a late-stage review is also out-weighed by the collective importance of other policies.
82. **Scheme C** accords with the development plan as a whole and other material considerations do not indicate a decision other than on those terms.

Conditions

83. I have considered the conditions suggested by the Council and the appellant. In doing so, I have had regard to the advice set out in both the Guidance, and in the Framework, in terms of both the justification for individual conditions and of appropriate wording. I have also had regard to relevant matters arising

- from the wider discussion of planning merits at the Hearing, and to possible pre-commencement requirements.
84. To provide certainty, a condition is imposed upon each permission to ensure the development is undertaken in accordance with the relevant drawings.
85. To safeguard local character and appearance, conditions are imposed relating to external materials, landscaping, tree protection and replacement, and to external pipework.
86. To safeguard local living conditions, arrangements for refuse storage/waste management remain to be agreed, and a Construction Logistics Plan (CLP) is required. The CLP is also necessary to safeguard traffic implications during the course of the works.
87. I am particularly concerned about the potential vulnerability of existing local living conditions for the duration of the works and the accompanying need to ensure specific and effective mitigation is in place. Such arrangements will need to be set out in the CLP and previously discussed with existing residents likely to be affected. The CLP should seek to mitigate and minimise as far as reasonably possible all disturbance to living conditions of residents in Finn House and adjoining throughout the works. Future living conditions will also be supported by a condition relating to fire safety.
88. To promote a sustainable development, conditions require appropriate provision for cycle storage, and are necessary to regulate air quality in relation to boilers, to promote biodiversity and to ensure agreed provision of proposed solar panels.
89. Matters relating to refuse storage and waste management, cycle parking, landscaping, tree protection and replacement, external materials, the CLP and to fire safety are all to be addressed before development commences. This is necessary given the importance of those matters to the sensitivities of the site and its development, and the implications which could otherwise arise should works proceed in the absence of their prior resolution.
90. **Appeal C** turns upon the availability of lift access and a pre-commencement condition is attached to ensure appropriate provision is to be made in all relevant regards.
91. More generally, conditions are worded to exclude any approval of previously submitted details relating to matters of refuse/waste storage and management, and to cycle storage, and in relation to landscaping, all of which require further formal submission and approval prior to commencement of any development.

Conclusions

92. For the reasons set out above, **Appeal A** is dismissed, and **Appeal B** and **Appeal C** are each allowed subject to the conditions identified.

Peter Rose
INSPECTOR

SCHEDULE OF CONDITIONS

Appeal B Ref: APP/U5360/W/22/3291198

General terms

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. Except as otherwise relating to proposals for refuse/waste storage and its associated management, to matters of cycle storage, and to associated landscaping to the rear, the development hereby permitted shall be carried out in accordance with the approved drawings referenced as follows:

WP-762B-A-0000-P-00 Rev B

WP-762B-A-0001-P-00 Rev B

WP-762A-A-0105-P-05 Rev B

WP-762A-A-0106-P-RF Rev B

WP-762A-A-0200-E-XX Rev B

WP-762A-A-0300-S-XX Rev B

3. The details hereby approved in the drawings listed shall not relate to any aspect of refuse/waste storage and its associated management, and nor to any matters of cycle storage, or to associated landscaping, all of which shall be the subject of further submissions as detailed in the pre-commencement conditions below.

Pre-commencement

4. Notwithstanding the details as shown on the originally submitted drawings, no development shall take place until full details of a proposed refuse storage facility to serve the development and the application site's existing dwellings, and including its location, form and design, have been submitted to and been approved in writing by the Local Planning Authority. The submission shall include details of prior consultations with affected existing residents. The facility shall be implemented in full accordance with the approved details prior to the first occupation of the development and be maintained and retained thereafter. The details as shown on the originally submitted drawings shall not form part of this permission and all such matters remain to be approved.
5. Notwithstanding the details as shown on the originally submitted drawings, no development shall take place until full details of a proposed Waste Management Plan to serve the development and the application site's existing dwellings, and including full details of arrangements for collection of waste and recycling, have been submitted to and been approved in writing by the Local Planning Authority. The submission shall include details of prior consultations with affected existing residents. The approved arrangements shall be implemented in full accordance with the approved details prior to the first occupation of the development and be maintained and retained thereafter.

6. A landscaping scheme for the existing amenity space to the rear, to include details of the provision of new trees and shrubs and associated works, shall be submitted to and be approved in writing by the Local Planning Authority prior to the commencement of any development. The submission shall include details of prior consultations with affected existing residents. The details as shown on the originally submitted drawings shall not form part of this permission and all such matters remain to be approved.

All landscaping to be approved shall be carried out within a period of twelve months from the date on which the development of the site commences, or shall be carried out in the first planting season following completion of the development. The landscaping shall be maintained to the satisfaction of the Local Planning Authority for a period of ten years, such maintenance to include the replacement of any plants that die, or become severely damaged, seriously diseased, or removed.

7. No development shall take place until full details confirming all existing and proposed replacement trees within the appeal site have been submitted to and been approved in writing by the Local Planning Authority. The details shall include arrangements for the protection of any existing to-be-retained trees. The approved arrangements shall remain in place for the duration of the works and the development shall proceed in accordance with the details as approved.
8. Notwithstanding the details as shown on the originally submitted drawings, no development shall take place until full details of arrangements for cycle parking/storage (including details of stands) have been submitted to and been approved in writing by the Local Planning Authority. The submission shall include details of prior consultations with affected existing residents. The approved facilities shall be implemented in full prior to the first occupation of the development and be maintained and retained thereafter. The details as shown on the originally submitted drawings shall not form part of this permission and all such matters remain to be approved.
9. No development shall take place until full details, with samples, of the materials to be used on all external surfaces of the development have been submitted to and been approved in writing by the Local Planning Authority. The submission shall include details of:
 - a) external bricks and mortar;
 - b) external windows and doors;
 - c) the materials of all other external surfaces, including the roof;
 - d) all external soil stacks, soil vent pipes, flues, guttering and any other pipework.

The development shall be undertaken in accordance with the details as approved.

10. No development shall take place until a Construction Logistics Plan (CLP) has been submitted to and been approved in writing by the Local Planning Authority. The CLP shall seek, amongst other things, to mitigate and minimise as far as reasonably possible all disturbance to living conditions of

residents within Finn House and those adjoining for the duration of the works.

The CLP shall include the following:

- a) arrangements for loading and unloading of plant and materials;
- b) arrangements for vehicle access and routing of construction traffic;
- c) arrangements for storage of plant and materials;
- d) an outline of the programme of works (including any necessary measures for traffic management);
- e) provision of boundary hoardings;
- f) provision of wheel cleaning facilities on site;
- (g) details to show how the living conditions of existing residents will be reasonably safeguarded and with particular regard to:
 - i) hours of work;
 - ii) noise;
 - iii) dust;
 - iv) vibration;
 - v) any other foreseeable disturbance to existing living conditions;
 - vi) liaison arrangements between residents and the developer/contractor, both prior to commencement of any works and throughout their duration.

11. No development shall take place except in full accordance with the details of the CLP as to be approved.
12. No development shall take place until a Fire Safety Statement consistent with the terms of Policy D12 of the London Plan has been submitted to and been approved in writing by the Local Planning Authority, and the development shall be undertaken and occupied in accordance with the details as approved.

Pre-occupancy

13. Prior to the occupation of the development hereby approved, the measures set out in the Finn House Biodiversity Net Gain Design Note prepared by AESG, dated 23 February 2023, shall be provided on site and retained thereafter.
14. Prior to the occupation of the development hereby approved, arrangements for a scheme of solar panels serving the development, including a programme for implementation, shall be submitted to and be approved in writing by the Local Planning Authority, and the panels shall be installed in accordance with those details and be maintained and retained thereafter.

Post-occupancy

15. No soil stacks, soil vent pipes, flues or other external pipework shall be fixed to the Bevenden Street elevation other than as previously approved.
16. All non-Combined Heat and Power (CHP) space and hot water fossil fuel (or equivalent hydro-carbon based fuel) boilers installed as part of the development hereby approved shall achieve dry NO_x emission levels equivalent to or less than 40 mg/kWh.

Appeal C Ref: APP/U5360/W/22/3291203

General terms

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. Except as otherwise relating to proposals for refuse/waste storage and its associated management, to matters of cycle storage, and to associated landscaping to the rear, the development hereby permitted shall be carried out in accordance with the approved drawings referenced as follows:

WP-762B-A-0000-P-00 Rev B

WP-762B-A-0001-P-00 Rev B

WP-762B-A-0105-P-05 Rev B

WP-762B-A-0106-P-RF Rev B

WP-762B-A-0200-E-XX Rev B

WP-762B-A-0300-S-XX Rev B

3. The details hereby approved in the drawings listed shall not relate to any aspect of refuse/waste storage and its associated management, and nor to any matters of cycle storage, or to associated landscaping, all of which shall be the subject of further submissions as detailed in the pre-commencement conditions below.

Pre-commencement

4. Notwithstanding the details as shown on the originally submitted drawings, no development shall take place until full details of a proposed refuse storage facility to serve the development and the application site's existing dwellings, and including its location, form and design, have been submitted to and been approved in writing by the Local Planning Authority. The submission shall include details of prior consultations with affected existing residents. The facility shall be implemented in full accordance with the approved details prior to the first occupation of the development and be maintained and retained thereafter. The details as shown on the originally submitted drawings shall not form part of this permission and all such matters remain to be approved.
5. Notwithstanding the details as shown on the originally submitted drawings, no development shall take place until full details of a proposed Waste Management Plan to serve the development and the application site's existing dwellings, and including full details of arrangements for collection of

waste and recycling, have been submitted to and been approved in writing by the Local Planning Authority. The submission shall include details of prior consultations with affected existing residents. The approved arrangements shall be implemented in full accordance with the approved details prior to the first occupation of the development and be maintained and retained thereafter.

6. A landscaping scheme for the existing amenity space to the rear, to include details of the provision of new trees and shrubs and associated works, shall be submitted to and be approved in writing by the Local Planning Authority prior to the commencement of any development. The submission shall include details of prior consultations with affected existing residents. The details as shown on the originally submitted drawings shall not form part of this permission and all such matters remain to be approved.

All landscaping to be approved shall be carried out within a period of twelve months from the date on which the development of the site commences, or shall be carried out in the first planting season following completion of the development. The landscaping shall be maintained to the satisfaction of the Local Planning Authority for a period of ten years, such maintenance to include the replacement of any plants that die, or become severely damaged, seriously diseased, or removed.

7. No development shall take place until full details confirming all existing and proposed replacement trees within the appeal site have been submitted to and been approved in writing by the Local Planning Authority. The details shall include arrangements for the protection of any existing to-be-retained trees. The approved arrangements shall remain in place for the duration of the works and the development shall proceed in accordance with the details as approved.
8. Notwithstanding the details as shown on the originally submitted drawings, no development shall take place until full details of arrangements for cycle parking/storage (including details of stands) have been submitted to and been approved in writing by the Local Planning Authority. The submission shall include details of prior consultations with affected existing residents. The approved facilities shall be implemented in full prior to the first occupation of the development and be maintained and retained thereafter. The details as shown on the originally submitted drawings shall not form part of this permission and all such matters remain to be approved.
9. No development shall take place until full details, with samples, of the materials to be used on all external surfaces of the development have been submitted to and been approved in writing by the Local Planning Authority. The submission shall include details of:
 - a) external bricks and mortar;
 - b) external windows and doors;
 - c) the materials of all other external surfaces, including the roof;
 - d) all external soil stacks, soil vent pipes, flues, guttering and any other pipework.

The development shall be undertaken in accordance with the details as approved.

- 10.No development shall take place until a Construction Logistics Plan (CLP) has been submitted to and been approved in writing by the Local Planning Authority. The CLP shall seek, amongst other things, to mitigate and minimise as far as reasonably possible all disturbance to living conditions of residents within Finn House and those adjoining for the duration of the works.

The CLP shall include the following:

- a) arrangements for loading and unloading of plant and materials;
- b) arrangements for vehicle access and routing of construction traffic;
- c) arrangements for storage of plant and materials;
- d) an outline of the programme of works (including any necessary measures for traffic management);
- e) provision of boundary hoardings;
- f) provision of wheel cleaning facilities on site;
- (g) details to show how the living conditions of existing residents will be reasonably safeguarded, and with particular regard to:
 - i) hours of work;
 - ii) noise;
 - iii) dust;
 - iv) vibration;
 - v) any other foreseeable disturbance to existing living conditions;
 - vi) liaison arrangements between residents and the developer/contractor, both prior to commencement of any works and throughout their duration.

- 11.No development shall take place except in full accordance with the details of the CLP as to be approved.

- 12.No development shall take place until a Fire Safety Statement consistent with the terms of Policy D12 of the London Plan has been submitted to and been approved in writing by the Local Planning Authority, and the development shall be undertaken and occupied in accordance with the details as approved.

- 13.No development shall take place until full specification of the detailed technical design, form and operation of the lifts has been submitted to and been approved in writing by the Local Planning Authority, and including arrangements and responsibilities for future maintenance. The lifts and all related facilities shall be provided prior to first occupation of the dwellings hereby approved and shall be maintained at all times in operational condition thereafter in accordance with the details as approved.

Pre-occupancy

14. Prior to the occupation of the development hereby approved, the measures set out in the Finn House Biodiversity Net Gain Design Note prepared by AESG, dated 23 February 2023, shall be provided on site and retained thereafter.
15. Prior to the occupation of the development hereby approved, arrangements for a scheme of solar panels serving the development, including a programme for implementation, shall be submitted to and be approved in writing by the Local Planning Authority, and the panels shall be installed in accordance with those details and be maintained and retained thereafter.

Post-occupancy

16. No soil stacks, soil vent pipes, flues and or other external pipework shall be fixed to the Bevenden Street elevation other than as previously approved.
17. All non-Combined Heat and Power (CHP) space and hot water fossil fuel (or equivalent hydro-carbon based fuel) boilers installed as part of the development hereby approved shall achieve dry NO_x emission levels equivalent to or less than 40 mg/kWh.

APPEARANCES

For the local planning authority:

Catherine Nichol - Senior Planning Officer, Hackney Council

Alishba Emanuele - Planning Officer, Hackney Council

Amanda North - solicitor, Hackney Council

For the appellant:

Jon Murch - Davies Murch

Jamie Milne - project manager, RG Airspace Developments Ltd

Steven Pirks - architect, Wimhurst Pelleriti

Jed Holloway - solicitor, Town Legal

Interested parties:

Bertie Dixon - local resident

Sheelagh Laird - local resident

Donna Mather - local resident

Alexia Moriaux - local resident

Anna Michael - representative of a flat owner

Mark Jones - managing agent, Stock Page Stock

HEARING DOCUMENTS

The following documents were submitted to and accepted during the Hearing, or submitted after the event in accordance with agreed arrangements:

Reference	Subject
HD1	Appellant's compendium of latest scheme drawings
HD2	Appellant's confirmation of lift costs implications by email dated 19 April 2023
HD3	Appellant's response to comments made by Mr Dixon attached to email of 20 April 2023
HD4	Appellant's comments regarding possible viability mechanism by email dated 20 April 2023
HD5	Appellant's final comments in relation to its application for costs attached to email of 20 April 2023
HD6	Appellant's confirmation of final drawing lists attached to email of 24 April 2023, also attaching relevant Land Registry details and LB Islington decision relating to Parkhurst Court, Warlters Road, London, N7 0SD dated 15 February 2022. Email also confirmed site address and appellant details
HD7	Council's agreement to appellant's lists of final drawings by email dated 25 April 2023, and to lists of agreed conditions
HD8	Council's CIL compliance statement, and copies of consultation responses received pursuant to Appeal B and Appeal C attached to email of 25 April 2023
HD9	Appellant's final comments in relation to viability review attached to email of 2 May 2023
HD10	Competed unilateral undertakings for Scheme A dated 27 April 2023
HD11	Competed unilateral undertakings for Scheme B dated 5 May 2023
HD12	Competed unilateral undertakings for Scheme C dated 10 May 2023
HD13	Appellant's email of 6 July 2023 in confirmation of affordable housing contribution
HD14	Appellant's email of 10 July 2023 in confirmation of possible pre-commencement condition in relation to Appeal C (lift details)