



Appeal Decision

Site visit made on 6 December 2023

by D R McCreery MA BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2024

Appeal Ref: APP/B5480/W/23/3322009

11 Station Road, Havering, Upminster, RM14 2SJ

- 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 Eastern Ironworks Ltd against the decision of the Council of the London Borough of Havering.
 - The application Ref P1585.22, dated 23 September 2022, was refused by notice dated 16 January 2023.
 - The development proposed is demolition of all buildings and redevelopment to provide a hotel (within Use Class C1) at ground floor and part three and part four storeys over; together with premises at ground floor for the display or retail sale of goods, other than hot food (Use Class E(a)); and/or for the sale of food and drink for consumption (mostly) on the premises (Use Class E(b)), and/or for the provision of financial services, professional services or other appropriate services in a commercial, business or service locality (Use Class E(c)).
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Decision

1. The appeal is allowed and planning permission is granted for demolition of all buildings and redevelopment to provide a hotel (within Use Class C1) at ground floor and part three and part four storeys over; together with premises at ground floor for the display or retail sale of goods, other than hot food (Use Class E(a)); and/or for the sale of food and drink for consumption (mostly) on the premises (Use Class E(b)), and/or for the provision of financial services, professional services or other appropriate services in a commercial, business or service locality (Use Class E(c)) at 11 Station Road, Upminster, RM14 2SJ in accordance with the terms of the application, Ref P1585.22, dated 23 September 2022, and the plans and details submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Planning law requires that applications for planning permission be determined in accordance with the development plan for the area unless material considerations indicate otherwise. In this case, the relevant parts of the development plan are the Havering Local Plan (Local Plan) and the London Plan. The National Planning Policy Framework (the Framework) is a material consideration.
3. The Framework was updated in December 2023 and is the main source of national policy relevant to my decision making. Neither the Council nor the Appellant felt that the update materially changed the national policy relevant to this appeal, nor their respective cases. I do not disagree.

4. The Council and the Appellant agreed a Statement of Common Ground (SOCG) which I have paid regard to. As well as setting out an agreed position on the relevant existing planning policies for the area, the SOCG draws my attention to the Council's intention to update the Local Plan. Given the early stage of this work, and lack of detail about potential implications, the status of any emerging local plan has not been a factor in my decision making.
5. The appellant has submitted three Unilateral Undertakings (S106) that are all dated 6 November 2023. Taken together the S106 makes obligations aimed at addressing the Council's reasons for refusal relating to carbon reduction (RFR3), air quality (RFR4), and training and recruitment (RFR5). The further submissions I sought from both parties on the S106 have been considered. I will address the S106 later in the decision.
6. The Appellant has submitted a number of technical documents in support of the appeal, this includes an updated Transport Statement (April 2023), Air Quality Assessment (January 2023) and Air Quality Technical Note (May 2023). I am satisfied that the further details provided in these documents are not of such a nature that paying regard to them at the appeal stage would be unfair.

Main Issues

7. The main issues are:
 - Effects on the character and appearance of the area.
 - Effects on the living conditions of nearby residents.
 - Highways effects, when regard is paid to highway safety and impacts on the free flow of traffic.
 - Whether the S106 meets the tests in Paragraph 57 (Framework) and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, particularly in relation to air quality.

Reasons

Character and appearance

8. The character of the area is busy and commercial, consistent with the location at the heart of the Upminster District Centre and close to the public transport hub that includes Upminster train station. The site shares front and rear boundaries with Station Road and Wilson Close, and therefore addresses two distinct character areas. Firstly the area around Station Road, with its busy high street character and buildings formally arranged to address it. Then the Wilson Close surroundings, where formality is not a characteristic and there is a greater sense of openness arising principally due to the parking and other hard standing that are a function of the Close, in addition to housing and commercial uses.
9. Beyond the Station Road and Wilson Close frontages, the site is visually constrained by the buildings of 1-9 Station Road and Essex House at the side boundaries. As such, the overall scale, bulk and height of the proposal as a single entity would not be easily perceivable. The question is primarily one of how the relevant parts of the development would be perceived from the two distinct character areas provided by Station Road and Wilson Close.

Station Road

10. As seen along Station Road, the low rise appearance and layout of the existing buildings on the site is an anomaly in the street scene. The visual gap they create and the informality and appearance of the buildings results in a weak point in the street scene that is, overall, detracting.
11. The neighbouring buildings (1-9 Station Road and Essex House) are not heritage assets and it is unclear what the strong civic presence the Council mention refers to. Nevertheless, the buildings exhibit design features that contribute positively to the street scene and are of high quality. Such features include a scale and formality that reflects the role of Station Road as an important local thoroughfare, engaging ground floor frontages that support activity and the shopping centre function of the area, and robust and traditionally detailed upper floors.
12. Whilst they exhibit positive design features that enhance the high street there is little evidence that these buildings, or their setting, are particularly sensitive to appropriate place change. In relation to gaps between the two and the site, as seen from Station Road, the scale of the existing townscape gap provided by the site is a detracting characteristic. A proposal that seeks to create an appearance of a more continuous frontage with a closer physical relationship between buildings would, in principle, be more typical of the immediate setting.
13. There are a variety of building heights in the Station Road surroundings, which contributes positively to character by giving the high street visual interest. Within this variety three and four storey buildings are common, as exhibited by 1-9 Station Road and Essex House.
14. At its maximum height along the Station Road frontage the proposed building would be amongst the tallest structures along the high street, perhaps even the tallest (although the Council's assertion that this would be by a significant margin is unevicenced). Regardless, considering the relevant heights and the variety in the street scene, rejecting the proposal on this as a point of principle would not be justified, nor an approach explicitly advocated by planning policy that has been drawn to my attention. Nor do I agree with the Council's logic for why Essex House should be taken as a reference point for a maximum height that should not be exceeded, provided an appropriate context specific relationship can be achieved.
15. It is important to consider the relationships with the neighbouring buildings at 1-9 Station Road and Essex House as these are critical factors for determining whether the overall effect on the Station Road street scene would be acceptable. Effects in closer views from across Station Road immediately outside the site, as well as longer views in both directions (looking south along Station Road and from the junction at Station Road and St Mary's Lane) are of particular importance and have been considered, in addition to wider effects on the street scene.

16. The curved façade to the terrace of No.1-9 Station Road is attractive and distinctive. This feature is reinforced by similar configurations at other corners of the busy junction at Station Road and St Mary's Lane. In this respect No.1-9 acts as part of a collective gateway to Station Road, rather than being a particular visual focal point.
17. This feature, in addition to other positive design elements of the terrace, is primarily experienced in views from the junction itself. From here, views of the side of Essex House detract from the setting of No.1-9 due to the uncharacteristically extensive view of the side of the building, including its visually uninteresting and cluttered roof structures and subservient elements.
18. As seen from the area around the junction at Station Road and St Mary's Lane and from outside the site, the main part of the proposed building would rise two storeys above the terrace of No.1-9. As a consequence, both the front and one of the side walls would be highly visible. The step down to three storeys at the point that the building would meet the side wall of No.9 would provide an important visual transition between the two buildings and the step change in height, as well as a degree of visual separation between the No.1-9 terrace and the main part of the proposed building.
19. As a result of these elements, and despite the differences in height, the proposal would achieve an acceptable visual relationship with the terrace at No.1-9 Station Road. Indeed, in the case of the ground floor level, the proposal would improve on the existing relationship by allowing for the continuation of the terrace where there is currently the detracting townscape gap. To my mind, this is a considerable spatial benefit.
20. The proposal would not detract from the role that No.1-9 plays collectively with other buildings at the junction of St Mary's Lane as a termination/entry point to this part of Station Road. The openness of the approach from St Mary's Lane and the south would remain intact. Additionally, the visual influence of the No.1-9 terrace diminishes as one moves further along Station Road, to the point where longer views looking south primarily become of the flank wall of No.9. The contribution that the terrace of No.1-9 currently makes in such views is therefore very limited.
21. Turning to Essex House, the existing two storey step down from the main building of Essex House would allow a visual transition/break between this building and the proposal. Whilst there would be an apparent difference in height in views from the junction at St Mary's Lane and closer to the site, the visual relationship between the two buildings would be acceptable.
22. In longer views looking south along Station Road the proposed building would be more prominent than from other important views. This would primarily be due to the extent of visibility and the front building line of the proposal aligning with that of the terrace at No.1-9, rather than Essex House. In addition to prominence, this element would create a degree of visual dominance over Essex House and more extensive views of the flank wall of the new building than would be possible had the building line been consistent with Essex House. The height of the proposal contributes somewhat to these effects, but not to the extent that reducing it by one or two storeys would materially alter an impact that is primarily a consequence of the building line.

23. The front building line of the new building in relation to Essex House is a weak point of the proposal and, viewed in isolation, generates a degree of harm to the character and appearance of the area. I accept that the existing front building line at the site is largely broken and detracts from the character of the area, which is relevant but does not offer a complete justification.
24. Notwithstanding the above, the proposal's alignment with the terrace at No.1-9 is a spatial benefit for the reasons explained above. As such, there is an element of trade off between the two and the need to take a rounded view in recognition that misalignment between a proposal and at least one of the two neighbouring façades is going to be a reasonably anticipatable outcome of developing the site.
25. In my view, the individualistic nature and appearance of Essex House is such that this building has greater capacity to accommodate a misaligned front building line than the terrace at No.1-9. As such, accepting the degree of trade off and balancing the overall effects on the character and appearance of Station Road as a whole, the proposal would be acceptable and would respond to and respect the local street scene and context. Whilst my conclusions are focused on form and height, the materials and detailed design would also assist with achieving an acceptable relationship with the existing context. Approval of materials would be subject to later agreement by condition.

Wilson Close

26. Unlike Station Road, Wilson Close exhibits a lack of spatial formality and legibility. This arises primarily from the dominance of the public car parks, with associated sense of openness, the varying relationships between built forms and the road, and the functional and blank walls to the rear of the shopping parade. The absence of natural surveillance and human scale activity is an uninviting characteristic of Wilson Close.
27. The site is deeper than its neighbours and therefore creates a three sided frontage on to Wilson Close. As a result of this and the scale, the proposal would be a focal point when seen from Gaynes Road. Although the scale of the proposal would be a departure from that of the general surroundings of Wilson Close, it would not detract from any positive element of existing character. On the contrary, it would provide a visual focal point that would be an improvement on the existing that is dominated by public car parks that contribute to a setting that does not justify preservation simply for the sake of it. Whilst the space available for landscaping would not be extensive, the areas of soft landscaping indicated would improve and soften the overall appearance of an area that is currently dominated by hardstanding.
28. The Council's reference to the need for the proposal to conform with the existing Wilson Close context, seemingly to preserve unexplained future development opportunities, is not a factor deserving of weight on the evidence provided.
29. For the reasons set out, the proposal would have acceptable effects on the character and appearance of the area. Consequently, there is no conflict with the development plan including Policies 7 and 26 (Local Plan) and Policy D4 (London Plan) which collectively seek to ensure development achieves a good standard of design in line with policy in the Framework aimed at achieving well designed places (including in paragraph 135).

Living conditions

30. The Council's reason for refusal cites unacceptable effects on living conditions due to loss of daylight and overbearing effects, with the officer report referring to properties on St. Mary's Lane and Station Road that back on to Wilson Close.
31. The Appellants Daylight and Sunlight Report¹ (Light Report) considers the effects of the proposal. Aside from not having detailed information on aspects of floor plans, the Council have not disputed the general methodology in the Light Report, nor the selection of neighbouring properties for testing. I have no reason to take a different approach. Paying regard to the constraints identified in the report, reasonable endeavours have been made to identify site factors such as layouts, habitable rooms, and window aspects of potentially affected spaces. Reasonable assumptions are made where details cannot be established as fact.
32. As such, the Light Report is a credible basis to consider the potential effects of the proposal. The report utilises the well established approach set out in the BRE good practice guidelines (BRE Guidance), judging daylight by the two measures of Vertical Sky Component (VSC) and the No Sky Line. It is common ground between the Council and the Appellant that Policy D4 (London Plan) and the London Plan Housing Supplementary Guidance collectively indicate that some flexibility in terms of adherence to the BRE Guidance may be appropriate to allow for context. I have kept this in mind when reaching my conclusions.
33. The Light Report identifies degrees of conflict with the BRE Guidance in relation to daylight effects on windows serving 119 to 129 St. Mary's Lane (No.119 to 129) and 7 and 9 Station Road (No. 7 and 9). I will consider these individually.
34. Starting with No.119 to 129, the Light Report identifies a degree of conflict with the daylight standard in the BRE Guidance associated with five windows that are said to serve three rooms. The detailed analysis in the Light Report shows that figures identifying a noticeable loss of daylight for these rooms can be attributed to a degree of self obstruction arising from overhanging balconies.
35. When this is factored in, along with the degree of loss, whilst some reduction in daylight may be noticeable, the level of loss would not be of a scale likely to unreasonably effect the living conditions of the occupants. As such, the proposal would not result in an unacceptable loss of daylight to No.119 to 129.
36. Turning to No. 7 and 9, the Light Report identifies a degree of conflict with the daylight standard in the BRE Guidance associated with seven windows that are said to serve two rooms, in the case of No.7, and two windows serving two rooms in No.9.
37. The affected windows at No.9 are in the back of the rear wing and have a relatively open aspect compared to windows set within the side of the wing or the recessed section of rear wall. As such, although the loss of daylight associated with these windows would be noticeable, the VSC value for both windows with the development factored in is still good. As such, the loss of daylight to No.9 would not be unacceptable.

¹ Point 2 (September 2022) and additional statement dated 5 April 2023

38. In relation to No.7, the modest depth of the rear wing supports the Appellant's assumption that two of the windows and the door with glazed panels in the side of the wing serves rooms that are dual aspect. For these rooms the main existing source of daylight would come from the larger rear facing windows on each of the two respective floors. These rear facing windows would not, according to the Light Report, experience a noticeable loss of daylight. Taking the dual aspect rooms as a whole, although the windows in the side of the wing would see a noticeable reduction in daylight, with in some cases relatively low VSC values following development, the overall effect in terms of loss of daylight to these rooms would not be unacceptable.
39. Finally, the three windows in No.7 that are single aspect rooms are all set furthest within, and are most heavily constrained in daylight terms by, the rear wings of both No.7 and No.9. In terms of percentage loss of daylight using the BRE Guidance, two of the windows are at the margins of noticeability, and therefore do not lead me to conclude that the loss of light would be unacceptable.
40. The remaining single aspect window in the side wing of No.7 would experience a noticeable reduction in daylight, however the VSC value following the proposed development is not incompatible with the assessed existing values elsewhere on properties on Station Road. Given the single aspect nature and overall loss involved, the effects on this window are at the margins of acceptability. However, on balance the evidence does not lead me to conclude that the loss of light would be unacceptable.
41. Overall, the Light Report tests 14 surrounding properties, some 129 windows, for daylight effects. The majority of windows give no rise for concern when considered against the BRE Guidance. In an urban context, for a development of this scale, this is a relatively good outcome on the whole. There is some conflict with the BRE Guidance in respect of impacts on No.119-129 and No.7 and 9 that gives rise to a need for more detailed consideration of acceptability. Having considered the evidence on this matter in detail, the proposal would not result in an unacceptable loss of daylight.
42. In relation to overbearing effects, parts of the evidence use this phrase along with 'loss of outlook' and 'sense of enclosure' interchangeably. Despite the imprecise terminology I will use overbearing effects as this is what appears in the reason for refusal. This is on the understanding that such effects encompass both loss of outlook and increased sense of enclosure. This issue also has a link with effects on light conditions, which I find to be acceptable, and the contribution this element is capable of making as part of taking a rounded view of the question of overbearing effects. I have judged this issue with these considerations in mind, along with the other evidence.
43. I have also paid regard to the existing character of Wilson Close, where the open car parking creates conditions that are untypical of the wider area and, more generally, many urban environments where more formal and dense built conditions are part of the fabric of place. In this respect, as seen from some properties in No.119-129 and No.7 and 9, the proposal would change the outlook as seen from properties. For No.7 and 9, the primary source of outlook from rear windows would remain towards the existing supermarket, with enclosure from the development mostly experienced at an angle.

44. The presence of the development will be felt and different to existing. However, the effects would not be harmful paying regard to existing and proposed sources of outlook, effects on light, and the expectations in generally comparable urban environments.
45. In the case of No.119-129, again there would be a change in outlook as described in general terms above. A reasonable separation distance between the rear windows of the upper floor flats and the facing wall of the development would be provided by the turning head on the Close. This would lessen the effects.
46. With these considerations factored in, along with the unspecific nature of the evidence and analysis provided by the Council on this issue, I find the proposal would create acceptable conditions when regard is paid to potential overbearing effects.
47. I have considered the potential wider effects on living conditions expressed in comments from other interested parties. I accept the proposal will change how the surroundings will be experienced. However, once established within the area, the change associated with the development would have acceptable impacts on the living conditions of nearby residents.
48. For the reasons set out, the proposal would have acceptable effects on the living conditions of nearby residents. There is no conflict with the development plan arising from this main issue, and the proposal would accord with Policy 7 and 26 (Local Plan) and Policy D4 (London Plan) in relation to avoiding unacceptable impacts on living conditions.

Highways

49. The Council's reason for refusal cites concerns about highway safety and the free flow of traffic. Conflict with Policy 23 (Local Plan) is mentioned in the reason for refusal with limited explanation about which part of the policy they feel the proposal offends. I have, however, noted that Policy 23 states that the Council supports development which ensures safe and efficient use of the highway and demonstrates that adverse impacts on the transport network are avoided or, where necessary, mitigated.
50. In relation to servicing within Wilson Close, the Appellant has provided tracking diagrams that aim to illustrate how refuse and other service vehicles would turn safely, along with other transport evidence². A description is also included of how the proposed service area within the site would operate to manage the risk of additional traffic pressure on Wilson Close.
51. The tracking diagrams in the Transport Statements take account of two existing disabled parking bays within the turning head at the end of Wilson Close. However, they incorrectly show the extent of double yellow lines around the turning head as the existing 10 minute drop off space adjacent to the disabled bays that is identified by a sign is not accounted for.

² Including Transport Statements (September 2022) and (April 2023)

52. The Appellant's updated tracking drawing³ resolves this issue by taking account of the drop off bay and showing that the intended manoeuvrability is achievable. The Council are incorrect to say that there is no pavement or walkway around the turning head, although it does vary in width and is broken by existing vehicle accesses. Nevertheless, an absence of pavement or walkway space does not create a heightened risk of pedestrian conflict with service vehicles.
53. In light of the above, the proposal demonstrates that servicing in Wilson Close can take place safely. This would be subject to a condition requiring further details of a scheme aimed at confirming the detailed operation of the proposed service area to the rear of the site.
54. Turning to the arrangements for taxi drop off, no evidence has been drawn to my attention to prescribe a particular level of provision. Paying regard to the size of the hotel and the location, close to a public transport hub, I am not persuaded that dedicated provision would be a proportionate response. Instead, a dedicated taxi space would unnecessarily deprive pedestrians and others of room for movement and activity, which would be particularly undesirable on the Station Road frontage. There are existing taxi spaces on Station Road and space for drop off to the rear on Wilson Close (utilising the proposed service area). They offer legitimate options for taxi drop off without the need to create a dedicated space.
55. I agree with the Council that frequent taxi drop off directly outside the hotel or using the nearby bus layby would be undesirable. This issue could be adequately managed through a condition requiring further details of the operation of the service bay to the rear of the site and an update to the Hotel Travel Plan Statement to set out measures that the operator of the hotel will put in place to encourage taxi pick up and drop offs arranged by the hotel to take place in the service area on Wilson Close. Such a condition would provide proportionate mitigation against the risk of frequent drop off on Station Road.
56. For the reasons set out, the proposal would have acceptable highways effects when regard is paid to highway safety and impacts on the free flow of traffic. There is no conflict with the development plan for the area arising from this main issue, and the proposal would accord with Policy 23 (Local Plan) which details the Council's support for development which ensures safe and efficient use of the highway and demonstrates that adverse impacts are avoided or, where necessary, mitigated.

S106

57. The SOCG (para 18) confirms the common ground between the Appellant and the Council in relation to the S106 and the basis for the Council not wishing to pursue their reasons for refusal on carbon reduction (RFR3), air quality (RFR4), and training and recruitment (RFR5). A substantive disagreement exists in relation to air quality (RFR4). The S106 is a main issue for this reason.

³ 21208-MA-XX-XX-DR-C-0005- P06

Air quality

58. The Council's rationale for requiring assessment in line with what was draft consultation guidance is unclear and, in my view, questionable in terms of legitimacy. Regardless, the Appellant has provided updated air quality evidence⁴ based on the latest GLA guidance that is now in force. The Council has not commented on the substance of this information, and I have no reason to accept the methodology and conclusions as anything other than correct.
59. The evidence demonstrates that the building emissions associated with the development are below the benchmark set out in the guidance. Off setting is required in relation to trip generation, which is capable of being achieved through travel plan initiatives. The Appellant's hotel travel plan shows how this could be taken forward. However, a condition would be necessary to ensure that a more specific travel plan linked to operator needs is agreed at a later point. This is in addition to other conditions aimed at addressing air quality, including dust prevention during construction and provision of electric vehicle charging points.
60. Overall, the evidence demonstrates that the proposal would be at least air quality neutral. As such there would be no conflict with Policy 33 (Local Plan).
61. As a consequence, the S106 relating to air quality is not necessary to make the development acceptable in planning terms and the tests at Paragraph 57 (Framework) and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 would not be met. Therefore, I have not paid regard to it in reaching my conclusions on the appeal.

Other obligations

62. The obligation relating to carbon reduction satisfies Policy 36 (Local Plan), to which Policy 33 also refers. The financial contribution to the Council's Carbon Reduction Fund would meet the overall zero carbon target in Policy SI2 (London Plan), at a level calculated in accordance with Policy SI 2(C) and the GLA Energy Assessment Guidance. The obligation relating to training and recruitment satisfies Policy 22 (Local Plan), including the use of reasonable endeavours to meet the 20% target set out in the policy.
63. Overall, I am satisfied that the other obligations have been validly made and meet the tests at Paragraph 57 (Framework) and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I have taken them into account.

Other Matters

Other interested party comments

64. I have paid regard to comments from other interested parties. Where they relate to the main issues they have been considered as part of my conclusions elsewhere in this decision. Other comments do not affect my conclusions on the main issues or the overall outcome of the appeal. Some of the issues raised are also the subject of conditions, discussion of which follows later in the decision.

⁴ Air Quality Assessment (January 2023) and Air Quality Technical Note (May 2023)

65. I appreciate the level of concern expressed about the proposal, with many comments questioning the need for a hotel in this location. The principle of hotel use on the site accords with development plan policy (particularly Policy 13, Local Plan). Promotion of hotel accommodation in town centre locations is also supported by Policy E10 (London Plan). As such, hotel use is acceptable in principle. Speculation about who may use the hotel is not a matter that attracts weight.
66. There is no evidence to suggest that a well managed hotel in a town centre location has the potential to attract criminal activity or anti social behaviour. Achievement of a Certificate of Compliance in respect of the Secured by Design scheme would be a condition of consent, which provides for further appropriate planning related management of this issue.
67. It is common ground between the Council and the Appellant that commercial units and hotel accommodation would have a positive impact on the vitality of the town centre. I have no reason to take a different view, nor expect that the proposal will not bring with it opportunities for local use, jobs and bring benefits to the local economy more generally.
68. It is not a purpose of this appeal to establish the acceptability of alternative uses that may be considered preferable to some, such as flats. Instead, my focus is on concluding on the acceptability of the proposal that is in front of me.
69. The proposal is in an area of high public transport accessibility and is supported by adequate highways and traffic evidence. Whilst I understand general concerns that the use would bring with it pressure in terms of local parking and highways, the evidence demonstrates that the relevant parking standards would be met and that effects on traffic can be adequately managed. There is no specific evidence that leads me to conclude that the proximity of nearby schools brings with it heightened risks, in terms of highways or any other planning consideration.
70. Other potential impacts on living conditions, such as short term disruption from construction and operational effects from servicing and other noise, can be adequately managed through conditions. It is not anticipated that a hotel use would lead to pressure on local infrastructure such as GPs, schools, and dentists given the primary purpose of a hotel is to serve visitors.
71. Comments raising other matters (including those unrelated to planning) do not affect my conclusion on the main issues or the final outcome of the appeal.

Heritage assets

72. The Grade I Listed Church of St Laurence (with adjacent Rectory and War Memorial) are located to the south of the site. Upminster Road and the buildings on the north side of it are significant visual and spatial barriers that sit between the heritage assets and the site. The distance and barrier described is such that, as a matter of fact and degree judgment, I do not regard the site as falling within the setting of the heritage assets.
73. In relation to visual effects as seen from the churchyard, any views of the proposal would be filtered by trees and buildings. Such views would be mainly limited to the top section of the new building, seen at distance and in the background of existing buildings on the north side of Upminster Road.

74. Paying regard to policy in the Framework and the relevant duties, the setting of heritage assets would be preserved.

Conclusion

75. The proposal would have acceptable effects on the character and appearance of the area, on the living conditions of nearby residents, and would have acceptable highways effects when regard is paid to highway safety and impacts on the free flow of traffic, and air quality. As such, the proposal would accord with the development plan for the area when taken as a whole.
76. For the avoidance of doubt, had I concluded that the level of harm to the character and appearance of the area arising from the relationship between Essex House and the front building line of the proposal generated conflict with the development plan as a whole, the degree of harm would have been outweighed by the benefits of the proposal. In particular, promoting and supporting the development of underutilised land in a sustainable location in line with policy in Section 11 of the Framework (particularly paragraphs 123 and 124), in circumstances where it is acknowledged that commercial use would have a positive impact on the vitality of the town centre.
77. In light of the above, the appeal is allowed. This is subject to the conditions discussed below.

Conditions

78. I will consider conditions by reference to the numbering in the attached schedule. Where used, I have amended the wording of the conditions suggested by the Council, as appropriate, in the interests of clarity and effectiveness. I have combined some conditions where logical to do so. I have also paid regard to the Appellant's comments about conditions.
79. Some of the Council's suggested conditions require submission of matters addressed in the Appellant's technical reports, with an absence of evidence or explanation as to why a further submission is necessary. Unless the purpose is self evident such conditions have generally not been imposed or have been amended to refer to the existing evidence and to allow for update should that become necessary as the development is carried out.
80. Condition (2) is necessary in the interests of certainty. Conditions (3) (5) (9) (12) (27) are needed to ensure a good standard of external appearance, design (including secured by and inclusive design) and landscaping.
81. Conditions (4) (6) (22) (25) (26) are necessary in the interests of highway and public safety, traffic management, ensuring satisfactory provision for waste, refuse, and cycle storage and appropriately protecting the amenity of those living and visiting the area.
82. Condition (7) is necessary in the interests of using the planning system to make appropriate provision for construction management, in light of the scale of the development and proximity to residential and commercial uses. It needs to be a pre-commencement condition as the required plan may include measures that would need to be in place upfront.
83. Condition (8) is necessary to ensure appropriate management of surface water run off and drainage. It needs to be a pre-commencement condition as there

may be measures necessary that would be hard to retrofit at a later point. Whilst I note that further drainage information has been submitted with the appeal, demonstrating acceptability in principle, a further condition relating to this matter is necessary in order to allow for further consultation on measures that best respond to the detailed design.

84. A separate condition relating to provision of porous hard standing is unnecessary as details would be approved under condition (8).
85. Conditions (10) (11) (13) (14) (15) (16) are necessary in the interests of achieving sustainable development and ensuring that the development makes a suitable contribution towards managing local air quality, water infrastructure, biodiversity and reduction in carbon emissions. (15) needs to be a pre commencement condition as it may include measures that would be hard to retrofit at a later point.
86. Conditions (17) (18) (19)(20) (21) are necessary to protect users of the development and nearby occupants from unreasonable noise and disturbance.
87. In relation to hours of operation, the Council's suggested hours for deliveries and waste collection are unduly restrictive given the commercial nature of the area. I have instead adopted the Appellant's suggested hours as I judge them to be more reasonable, paying regard to the nature of the use, the servicing areas available, and the context of the area. I have amended the weekday morning timing in condition (21) so it aligns with the timing in other conditions. I have also clarified (21) to state that it does not include the hotel reception in the interests of reasonableness.
88. Whilst I note the conclusion of low to moderate archaeological potential across the site, conditions (23) (24) are necessary and reasonable in light of the location within an Archaeological Priority Zone. (23) needs to be a pre-commencement condition to minimise the risk of damaging undiscovered archaeology later in the development process.
89. The Council's suggested condition relating to submission of landscaping details is not necessary, as information has already been provided and is acceptable. Accordance with the details is a separate condition.
90. The Council's suggested condition requiring a report with respect to whole life carbon is imprecise in its terms. As such, I am unable to conclude that the condition would add value over and above more specific conditions and therefore pass the test of necessity.
91. The Council's suggested condition on inclusive design is imprecise in respect of its reference to the 'relevant Building Regulations' and therefore is not justified as necessary. The Appellant's Design and Access Statement includes an inclusive design statement, according with Policy D5c (London Plan). Suggested conditions relating to specific measures (such as roof solar and air source heat pump feasibility) have not been justified as reasonable or necessary in the context of the evidence provided by the Appellant.

D R McCreery

INSPECTOR

Schedule of Conditions (1 of 3 pages)

1. The development to which this permission relates must be commenced not later than three years from the date of this permission.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and other details, unless otherwise agreed in writing with the Local Planning Authority. For the avoidance of doubt, the plans are:
 - 3547_PL(20)101 Site Ground Floor Plan @A3
 - 3547_PL(20)102 Site First Floor Plan @A3
 - 3547_PL(20)103 Site Second Floor Plan @A3
 - 3547_PL(20)104 Site Third Floor Plan @A3
 - 3547_PL(20)105 Site Fourth Floor Plan @A3
 - 3547_PL(20)106 Site Roof Plan @A3
 - 3547_PL(20)200 GA Ground Floor Plan @A3
 - 3547_PL(20)201 GA First Floor Plan @A3
 - 3547_PL(20)202 GA Second Floor Plan @A3
 - 3547_PL(20)203 GA Third Floor Plan @A3
 - 3547_PL(20)204 GA Fourth Floor Plan @A3
 - 3547_PL(20)205 GA Roof Plan @A3
 - 3547_PL(20)301 Context East and West Elevations as Proposed @A3
 - 3547_PL(20)302 Context North and South Elevations as Proposed @A3
 - 3547_PL(20)303 Context East and West Elevations as Existing @A3
 - 3547_PL(20)304 Context North and South Elevations as Existing @A3
 - 3547_PL(20)401 East and West Elevations @A3
 - 3547_PL(20)402 North and South Elevations @A3
 - 3547_PL(20)501 Sections @A3
 - 3547_PL(20)601 Detail East Elevation and Section - Station Road @A3
 - 3547_PL(20)602 Detail West Elevation and Section - Block B facing Wilson Close @A3
 - 3547_PL(20)603 Detail South Elevation and Section - Wilson Close @A3
 - 3547_PL(20)604 Detail South Elevation and Section - Glazed Link @A3
 - 3547_PL(20)701 Typical Bedrooms Layout @A3
 - 3547_PL(20)702 Non standard room layouts @A3
 - 3547_PL(20)801 Ground Floor Landscape Plan @A3
 - 3547_PL(20)802 First Floor Landscape Plan @A3
 - 3547_PL(90)101 Location Plan as existing @A3
 - 3547_PL(90)102 Survey and OS @A3
 - Hard and Soft Landscaping Plans - 22.5276.01, 22.5276.02, 22.5276.03
 - 3547_PL(20)803 Block Plan @A3
 - 21208-MA-XX-XX-DR-C-0010 -P03 (Disabled bay plan)
3. No works above damp proof course shall take until details of all external finishing materials, walls, fences and boundary treatments, are submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved materials unless a variation is first agreed in writing by the Local Planning Authority.

4. Before the development is first occupied or the use commenced, the area identified on the approved details as being set aside for car parking shall be laid out and surfaced to the satisfaction of the Local Planning Authority and electric vehicle charging points shall be provided. Car parking and charging points shall be retained permanently thereafter for the benefit of vehicles visiting the site and shall not be used for any other purpose, unless otherwise agreed in writing with the Local Planning Authority.
5. All hard and soft landscaping shall be completed in accordance with hard and soft landscaping plan (drawings 22.5276.01, 22.5276.02, 22.5276.03) unless variation is otherwise agreed in writing the Local Planning Authority or alternative details are agreed in accordance with any other condition of this permission. All planting, seeding or turfing shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local Planning Authority.
6. Before the development is first occupied or the use commenced the refuse and recycling facilities and cycle storage shall be provided in accordance with the approved drawings/ details. They shall be retained as such permanently thereafter unless otherwise agreed in writing with the Local Planning Authority.
7. Prior to commencement of development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority (to include any necessary updates to the submitted Construction Logistic Plan, September 2022). The works shall be carried out only in accordance with the approved detail unless written variation is first agreed by the Local Planning Authority. The Construction Method statement shall include details of:
 - a) parking of vehicles of site personnel and visitors;
 - b) details of vehicle cleansing;
 - c) storage of plant and materials;
 - d) dust management controls (to include a statement of accordance with the mitigation set out in Appendix E of the Air Quality Assessment submitted with the appeal (January 2023);
 - f) measures for minimising the impact of noise and, if appropriate, vibration arising from predicted noise and, if appropriate, vibration levels for construction using methodologies and at points agreed with the Local Planning Authority;
 - g) scheme for monitoring noise and if appropriate, vibration levels using methodologies and at points agreed with the Local Planning Authority;
 - h) siting and design of temporary buildings;
 - i) scheme for security fencing/hoardings, depicting a readily visible 24hour contact number for queries or emergencies;
 - j) details of disposal of waste arising from the construction programme, including final disposal points. The burning of waste on the site at any time is specifically precluded. And the development shall be carried out in accordance with the approved scheme and statement.
 - k) hours of operation during which construction shall take place
 - l) a programme of phased investigation and further recommendations in order to demonstrate accordance with section 6 of the Phase 1 Ground Conditions Desk Survey (September 2022)

8. Prior to commencement of development a surface water drainage strategy shall be submitted to and approved in writing by the Local Planning Authority (to include an update to the submitted Drainage Strategy Reports). The strategy shall demonstrate how surface water will be managed in regards to quantity and quality, specifying the range of components used. It shall include details of permeable paving, substrate depths and how this contributes to water attenuation across the site, and details of bio-filtration edges / kerbs and levels to encourage conveyance of water into planting beds. The development shall then be carried out in accordance with the strategy and shall be maintained thereafter in accordance with the approved details unless written variation is first agreed in writing with the Local Planning Authority.
9. The proposed development shall achieve a Certificate of Compliance in respect of the Secured by Design scheme, or alternatively achieve security standards (based on Secured by Design principles) to the satisfaction of the Metropolitan Police. The Certificate shall be provided to the Local Planning Authority prior to the first occupation of the development. All security measures identified shall be carried out and permanently retained thereafter, unless written variation is first agreed with the Local Planning Authority.
10. Before the development is first occupied or the use commenced, details shall be submitted to and agreed in writing by the Local Planning Authority for the installation of Ultra-Low NOx boilers with maximum NOx Emissions less than 40 mg/kWh, to include suitable mitigation should the standard not be achievable. The development shall be carried out in accordance with the agreed details and shall thereafter be permanently retained, unless written variation is first agreed with the Local Planning Authority. Following installation emissions certificates will need to be provided to the Local Planning Authority to verify boiler emissions.
11. The building hereby approved shall comply with Regulation 36 (2)(b) and Part G2 of the Building Regulations - Water Efficiency.
12. Before the development is first occupied or the use commenced, details of external lighting shall be approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be retained as such unless written variation is first agreed with the Local Planning Authority.
13. The development shall be carried out in accordance with the Energy Statement (7 September) or any update approved in writing by the Local Planning Authority. Before the development is first occupied or the use commenced evidence of accordance with the Statement shall be submitted to and agreed in writing with the Local Planning Authority (e.g. photographs, copies of installation contracts and as-built worksheets prepared under SAP or the National Calculation Method).

14. The development shall be carried out in accordance with the enhancement and other details set out in the Preliminary Ecological Report, Bat Survey, and Biodiversity reports (September 2022) or any update approved in writing by the Local Planning Authority. Before the development is first occupied or the use commenced evidence of accordance shall be submitted to and agreed in writing with the Local Planning Authority (e.g. evidence the bird nesting and bat roosting boxes have been installed, and/ or bat roosting bricks and/ or bird nesting bricks have been installed in accordance with details). Once implemented the measures shall be retained in accordance with the details unless otherwise agreed in writing with the Local Planning Authority.
15. Prior to commencement of the development a detailed Circular Economy Statement and Operational Waste Management Strategy in line with the GLA's Circular Economy Statement Guidance is submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.
16. Before the development is first occupied or the use commenced, a Post Completion Report setting out the predicted and actual performance against all numerical targets in the Circular Economy Statement agreed under condition 15 shall be submitted to the GLA at: circulareconomystatements@london.gov.uk, along with any supporting evidence as per the GLA's Circular Economy Statement Guidance. The Post Completion Report shall provide updated versions of Tables 1 and 2 of the Circular Economy Statement, the Recycling and Waste Reporting form and Bill of Materials. Confirmation of submission to the GLA shall be submitted to, and approved in writing by, the local planning authority, prior to occupation.
17. Before the development is first occupied or the use commenced evidence shall be provided to and agreed in writing with the Local Planning Authority that the scheme to control noise and vibration from external noise source, as detailed in section 6 of the noise report provided by Hydrock Acoustics Consultants (dated 6 September 2022) has been implemented, or such other scheme as may be agreed in writing with the Local Planning Authority. The agreed scheme shall be retained in accordance with the approved details unless written variation is agreed with the Local Planning Authority.
18. The Specific Noise Level emitted from the hereby permitted plant or machinery shall not exceed 10dB below the prevailing background noise level (L_{ASD}, T). Additionally, the Rating Sound Level shall not exceed 10dB below the prevailing background noise level (LA₉₀, T). The measurement position, assessment and definitions shall be made according to BS4142:2014 + A1:2019 "Methods for rating and assessing industrial and commercial sound."
19. No deliveries or waste collection shall take place other than between the hours of 07:00 to 23:00 Monday to Sunday (including bank and public holidays) unless otherwise agreed in writing with the Local Planning Authority.
20. No refuse collection shall be carried out from the site outside the following times 07.00 to 19.00 hours Monday to Friday, and 08.00-13.00 hours on Saturday nor at any time on Sundays, Bank or Public Holidays.

21. Other than the hotel reception, the commercial uses on the ground floor hereby permitted shall not be carried out on site outside the hours of 07.00 to 23:00 Monday to Saturday and 08.00 to 22.00 hours on Sundays and bank holidays unless agreed in writing with the Local Planning Authority.
22. Before the development is first occupied or the use commenced evidence shall be provided to and agreed in writing with the Local Planning Authority that the development has been carried out in accordance with the recommendations, as detailed in the Fire Safety Strategy (November 2022) and Fire Statement (September 2022), or such other recommendations as may be agreed in writing with the Local Planning Authority. The agreed measures shall be retained in accordance with the approved details unless written variation is agreed with the Local Planning Authority.
23. No excavation shall take place until a Stage 1 written scheme of investigation (WSI) has been submitted to and approved by the Local Planning Authority in writing. For land that is included within the WSI, no excavation shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent persons or organisation to undertake the agreed works. If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no excavation shall take place other than in accordance with the agreed stage 2 WSI which shall include:
- a. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
 - b. The programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.
- Written schemes of investigation will need to be prepared and implemented by a suitably qualified professionally accredited archaeological practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London. This condition is exempt from deemed discharge under schedule 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.
24. Any archaeological features not previously identified which are revealed when carrying out the development hereby permitted shall be retained in-situ and reported to the local planning authority in writing within 10 working days of their being revealed. Works shall be immediately halted in the area/part of the site affected until provision shall have been made for the retention and/or recording in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

25. Before the development is first occupied or the use commenced further details of the operation of the rear service area shall be submitted to and agreed in writing with the Local Planning Authority. The detail shall include measures that the hotel operator shall put in place to encourage taxi pick up and drop offs to the rear service area and discourage taxis using the Station Road frontage. The agreed measures shall be retained in accordance with the approved details unless written variation is agreed with the Local Planning Authority.

26. Prior to the first occupation or use of the development, a Travel Plan will be agreed with in writing by the Local Planning Authority. The Travel Plan will include reference to the submitted Hotel Travel Plan Statement (Markides, September 2022) and:

- a. Agreed measures to promote sustainable travel and reduce vehicle trips and emissions within specified timescales and a programme for delivery;
- b. A programme for the delivery of any proposed physical works;
- c. Effective measures for the on-going monitoring and review of the travel plan;
- d. A commitment to delivering the Travel Plan objectives for a period of at least five years from first occupation of the development, and;
- e. Effective mechanisms to achieve the objectives of the Travel Plan by both present and future occupiers of the development.

The development must be carried out and operated in accordance with the approved Travel Plan. Those parts of the approved Travel Plan that are identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is occupied.

27. In respect of inclusive design, the development hereby permitted shall be carried out in accordance with the inclusive design statement set out in Section 8 of the Design and Access Statement (including the key aspects set out in section 8.5) and the relevant building Regulations and shall be retained as such unless written variation is otherwise agreed in writing by the Local Planning Authority.

END

