



Appeal Decision

Site visit made on 26 June 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2024

Appeal Ref: APP/L5810/W/23/3328268

189 Waldegrave Road (including land at the rear of 189-207 Waldegrave Road), Teddington TW11 8LX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Matthew Allchurch, Waldegrave Mews Limited against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref is 21/3773/FUL.
 - The development proposed is change of use and alterations to no.189 Waldegrave Road to create one ground floor commercial unit and 3 no. one-bedroom residential apartments; creation of a disabled car parking space on the Waldegrave Road frontage; demolition of all existing buildings at the rear of no. 189-207 Waldegrave Road and the erection of two residential blocks (one two-storey and a part two, part three-storey building) comprising 15 no. residential apartments (8 x one bedroom and 7 x two-bedroom); erection of cycle storage and recycling structure; landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Matthew Allchurch against Richmond Upon Thames London Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Following the refusal of the application, the appellant submitted amended drawings¹ and a further Flood Risk Assessment and Drainage Strategy Revision 04, for clarification and to provide additional information in respect of the proposal. These do not alter the description or scale of the proposal and have been considered by the Council. I have accepted these in determining the appeal and I do not consider that the position of any party has been prejudiced in my doing so.
4. Reference has been made to the 'draft Local Plan.' On the information before me, it is unclear what stage in the plan making process this is at. More specifically, I have limited details in relation to its policies. As such, I am unable to attach any weight to the draft Local Plan in determining this appeal.

¹ Proposed Block Plan: Ground Floor MA014-MAA-XX-DR-A-01101-Revision P09; Proposed Block Plan: First Floor MA014-MAA-XX-DR-A-01102 – Revision P07; Proposed Block Plan: Second Floor MA014-MAA-XX-DR-A-01103-Revision P07 and Proposed Site Sections MA014-MAA-XX-DR-A-01121 – Revision P02.

Background and Main Issues

5. The Council's reason for refusal ('RfR') 4, alleges that the proposed scheme would fail to provide adequately sized rooms with comfortable and functional layouts and amenity space. RfR 5 alleges that the proposal fails to demonstrate the provision of adequate waste and recycling servicing and storage for Blocks B and C. The Council has acknowledged that the amended plans address the concerns raised in respect of RfR 4 and 5. I have also considered these along with the appellant's submissions and I have no reason to disagree.
6. Accordingly, the main issues are:
 - i) Whether the proposal would result in the unjustified loss of employment land;
 - ii) The effect of the proposal on the character and appearance of the area;
 - iii) The effect of the proposal on car parking and highway safety;
 - iv) Whether the proposal makes acceptable provision for affordable housing;
 - v) The effect of the proposal on the living conditions of neighbours;
 - vi) The effect of the proposal on a nearby tree;
 - vii) Whether the proposal makes adequate provision for drainage;
 - viii) Whether the proposal makes appropriate provision for fire safety and,
 - ix) Whether the proposal meets the Council's requirements for carbon reduction, water saving and energy efficiency.

Reasons

Loss of employment land

7. The appeal site comprises an end terrace property at 189 Waldegrave Road ('No. 189') the adjacent access road and the rear yard. This is owned and was occupied previously by Waldegrave Motors. The ground floor of No. 189 is a commercial unit. The upper floor of this property has a residential use. The purpose-built building at the rear of the appeal site was used as a car paint workshop. The remainder of the site, which includes smaller lock up garages was used to store vehicles awaiting resprays or repair work.
8. The ground floor of No.189 is currently vacant, having been occupied previously by Waldegrave Motors as ancillary accommodation to its car servicing and repair business. The application form identifies this area for use class B1(a) – Office, and sought to retain part of this within the same use. Following changes to the Use Classes Order, use class B1(a) now falls under Use Class E, (g)i. The Use Class Order allows for the movement between Class E uses, which includes Retail Class E(a). As such, even if I accept that the extant commercial area has an office use, there is nothing to suggest that this could not be changed to one of the other uses under Class E, including retail. Based on the appellant's recent submissions, the intended use of the retained commercial unit is retail, which could be secured by a condition if the appeal succeeds. I have proceeded with the appeal on this basis.
9. The appeal site is within the designated Waldegrave Road 'Area of Mixed Use' comprising local shops, services and restaurants fronting Waldegrave Road with flats above. Also, No. 189 is part of a designated Secondary Shop Frontage within a Parade of Local Importance.
10. About half the area of the extant commercial use on the ground floor of No.189 would be converted to residential use. Even so, the front part of this unit would

be retained for retail use with a shopfront. The evidence from the appellant's commercial agent confirms that this size of small, affordable retail unit could be let or sold.

11. Therefore, whilst there would be a reduction in the available commercial space at No. 189, this would not unacceptably prejudice the overarching aims of Policies LP 25 and LP 26 of the Local Plan (2018) ('LP'). Together, these policies aim to retain retail frontages and strengthen the role and function of centres.
12. London Plan Policy E1 and LP Policy LP 41, seek to safeguard existing office floorspace. Based on my findings in respect of the commercial use associated with the ground floor of No. 189, I do not find conflict with these policies.
13. In respect of the land and buildings to the rear of No. 189, the key policy for considering the loss of this is Policy LP 42 of the LP. This Policy recognises that the Borough has a very limited supply of industrial floorspace and how demand for this type of land is high. It therefore seeks to protect, and where possible enhance, the existing stock of industrial premises to meet local needs.
14. Moreover, Policy LP 42 of the LP sets out a presumption against loss of industrial land in all parts of the Borough. Loss of industrial space (outside of the Locally Important Industrial Land and Business Parks) will only be permitted where robust and compelling evidence is provided which clearly demonstrates that there is no longer demand for an industrial based use in a particular location and that there is not likely to be in the near future. Significantly, this must include evidence of completion of a full and proper marketing exercise over a minimum period of two continuous years, in accordance with the approach and details set out in its accompanying Appendix 5.
15. If marketing fails to identify appropriate future industrial use, the policy then triggers a sequential approach to possible redevelopment or change of use. Firstly, it requires consideration of redevelopment for office or alternative employment uses, and only then for mixed use including other employment generating or community uses, and residential purposes.
16. London Plan Policy E7 encourages mixed-use or residential development proposals on Non-Designated Industrial Sites only in specified circumstances. These include where there is no reasonable prospect of the site being used for industrial and related purposes.
17. The submitted Marketing Report confirms that since October 2018, the appeal site has been marketed by a commercial agent. This consisted of details being sent to the agents internal database, listing the details on the agent's website, Zoopla Commercial and listing the details on various agent to agent portals. Some marketing particulars have also been provided. However, and notwithstanding commercial sensibilities, given that most of the appeal site is unoccupied and located to the rear of existing buildings, the lack of a marketing board does not support a robust marketing exercise. Furthermore, on the information before me it is unclear if the price demanded for the site genuinely reflects the market value of the property.
18. The commercial agent advises that as a consequence of the marketing exercise, a number of enquiries were made but no one has made an offer

- based on keeping the existing industrial and office use during the marketing period.
19. Although the commercial agent advises that the erroneous indication that the site was 'under offer' would not have prevented any other offers being made, there is no certainty of this and is more likely to have deterred interested parties from making enquiries and offers.
 20. The Marketing Report also identifies that, commercial occupiers rejected the site because of its narrow access, proximity to residential occupiers and the lack of prominence of the location. Thereby, making deliveries and general business activities difficult. Also, that interest was received to redevelop the site for residential purposes.
 21. The submissions include limited assessment of potential redevelopment options for the site, including the construction of new industrial or office accommodation which are discounted due to the constraints associated with the site.
 22. I acknowledge that a condition attached to the previous permission for construction of the workshop precludes otherwise permitted uses of this building. This, and the constraints associated with the site in terms of access and neighbouring residential uses do place some limitations on the future use of the site for industrial uses.
 23. Nevertheless, and despite the Council's viability consultant assuming a 'nil' value for the rear of the site, based on the appellant's evidence, the site is very accessible. Also, not all employment uses and other social infrastructure and community uses are likely to be prejudicial to residential amenity. Indeed, the appeal site is located in a designated mixed-use area and has been used in association with a commercial use for some time, which included vehicles using the access. To this end, evidence to support alternative employment generating uses, and social infrastructure and community uses is very limited.
 24. Furthermore, I am unpersuaded by the appellant's assertion that the marketing information did not specify any potential use of the site to restrict enquiries or offers from alternative employment/business use (including office/retail use) or community uses. Indeed, a robust marketing exercise would proactively encourage potential uses, subject to planning permission. In addition, had the marketing details included particulars of the former use, this may have attracted occupiers wanting the site for a similar vehicle related use.
 25. For the above reasons, I do not consider the marketing evidence to be robust and compelling. Irrespective of this, on the information before me it does not appear that the appellant has clearly evidenced a sequential approach to the redevelopment of the site, including for social infrastructure and community uses.
 26. Consequently, with the exception of the reduced commercial space at No. 189, the overall loss of employment land associated with the appeal site has not been clearly justified and the proposal conflicts with the aims of LP Policy LP 42 and supporting Appendix 5 of the LP. Accordingly, the proposal also fails to satisfy the requirements of London Plan Policy E7.

Character and appearance

27. Within the Council's 'Hampton Wick and Teddington Village Planning Guidance' the appeal site forms part of the Cambridge Road and Surrounds Character Area 2. This identifies Waldegrave Road as a key through route for local traffic as well as having shops and other facilities, adding to its busy character. These are located at the south end near the High Street, and further north near the junction with Shacklegate Lane. This also identifies the housing as very mixed in character.
28. Part of the appeal site is located within a wider parade of terraced properties along Waldegrave Road. These are two and three storeys and most have been extended along their rear elevations. This has resulted in some variations to these properties. Immediately beyond this parade, development generally comprises two storey housing and some three storey flatted development.
29. 189 Waldegrave Road (Block A) - The proposal includes sizeable additions and alterations to the rear and at roof level of this property. As altered, this property would extend beyond the rear of 191 Waldegrave Road. However, because No. 189, is set back, the extent of extensions would be proportionate. Also, No. 189 is an end property, this forms a bookend to the wider terrace block and therefore its enlarged scale would not be inappropriate or disproportionate in this context. Also, there are other nearby properties which are sizeable. For example at 193 and 187 Waldegrave Road.
30. Because of the retention of the existing ridge height and roof form along the front of No. 189, the proposed alterations would not impact on the street scene. The alterations to the rear of this building would change its roof form. Even so, in the context of the varied roof forms associated with the rear of the properties along Waldegrave Road, and because the proposed alterations to the rear would be largely screened from public vantage points, the proposal would not result in any unacceptable visual harm to the area.
31. Proposed Blocks B and C - Block B is a linear north south oriented block which runs along the western boundary of the appeal site. Block C terminates the northern end of the site. These would introduce backland development. LP Policy LP 39 says that all infill and backland development must reflect the character of the surrounding area and protect the amenity and living conditions of neighbours. This includes addressing a number of factors. Similarly LP 1 of the LP, sets out certain requirements to ensure high quality design.
32. In terms of layout, Blocks B and C would occupy areas that are broadly developed. Also, the appeal site is an irregular shape and constrained by existing development. Accordingly, its layout and design seeks to maximise its redevelopment potential whilst trying to safeguard the living conditions of neighbours.
33. The mainly three storey height of blocks B and C, reflect the existing flatted development to the north of the site. Overall, the mass and scale of these blocks is mitigated through the use of varied roof forms, materials and design. Therefore, these are acceptable having regard to the context, which includes flatted development and other housing in a range of styles and materiality. Also, despite the constrained nature of the site, the proposal would secure some urban greening.

34. For the above reasons, the proposal would not harm the character and appearance of the area. This accords with LP policies LP 1 and LP 39. Together, these policies require that all developments are of high quality design and that infill and backland development must reflect the character of the surrounding area. The proposal is also consistent with London Plan Policy D3 which requires all development to make the best use of land by following a design-led approach that optimises the capacity of sites.

Parking and highway safety

35. The appeal site is mainly in an area with a Public Transport Accessibility Level ('PTAL') score of 2, with low accessibility to public transport. The appeal site is also within a Controlled Parking Zone ('CPZ').
36. In accordance with London Plan Policy T6, the development should provide up to 14 car parking spaces. However, other than 1 disable car parking space, which is to be provided on the forecourt of No. 189, the proposal is for a car free development.
37. A Transport Statement and Travel Plan Statement have been provided with the application which includes a parking stress survey. The former demonstrates parking stress in excess of 100%.
38. The proposed shortfall in car parking could exacerbate parking stress in the area, resulting in congestion and reducing highway safety. Nevertheless, there are bus stops along Waldegrave Road, within about 20m of the site. Further bus services are accessible from bus stops located within Stanley Road about a 700m walk distance of the site. These provide access to a range of other local destinations. The site is also within a reasonable walk and cycle distance of a number of rail stations, including Strawberry Hill mainline and Teddington Station.
39. The site is also well located to Waldegrave Road's shopping parade where there is a limited range of local services. A more extensive range of local services and facilities can be accessed at Teddington's High Street, which is within a 700m walk from the site. Twickenham town centre, which includes a range of retail and leisure services and facilities is accessible from the site by cycling or by bus services. Additionally, there are leisure, education, health and employment land uses within walking and cycling distance of the site.
40. The Travel Plan statement sets out measures to promote sustainable transport. These could be secured by a condition requiring a Travel Plan.
41. Moreover, the proposal includes a Unilateral Undertaking ('UU') which would prevent certain occupiers of the proposed dwellings from obtaining parking permits. A further UU includes an obligation for the first occupier of each residential unit to have membership to a car club to promote car sharing. The Unilateral Undertakings also incorporate requirements for fees to monitor these obligations.
42. On the information before me, the obligations to secure parking permit free development and car club membership and any associated monitoring fees are necessary in order to make the development acceptable in planning terms, directly related to the development, and reasonable in scale and kind. These accord with the tests for legal agreements, as set out in the National Planning

Policy Framework ('the Framework') and Regulation 122(2) of the Community Infrastructure Levy Regulations (as amended).

43. I acknowledge that the above measures do not exclude new residents parking outside the operational times of a CPZ and in areas which are outside a CPZ. Nonetheless, the inconvenience of such arrangements together with the appeal site's accessibility to public transport, shops and facilities and proposed obligations, are likely to deter private car ownership. In addition, a car free development would reduce noise and disturbance and is likely to have a positive effect on the local highway network. Therefore, despite the areas low PTAL rating and conflict with the parking requirements of London Plan Policy T6, because of the site specific circumstances, the proposal would not result in any unacceptable on-street parking stress.
44. The appellant has confirmed that no alterations are proposed to the existing access. Due to this and the development being car free, the proposal would not result in any harm to highway safety.
45. Consequently, the proposal would accord with LP Policy LP 45, which although advises that car free housing developments may be appropriate in locations with a high PTAL, this does not explicitly exclude car free development in lower PTAL areas, subject to: the provision of disabled parking; appropriate servicing arrangements; demonstrating that proper controls can be put in place to ensure that the proposal will not contribute to on-street parking stress in the locality and are supported by the submission of a Travel Plan. I see no reasons why these requirements cannot be met.
46. The proposal would also accord with LP Policy LP 44, which supports sustainable travel choices and LP 39 of the LP, which requires proposals to be acceptable with regard to vehicular access and car parking.

Affordable Housing

47. The proposed scheme is for eighteen apartments and is expected to meet the affordable housing requirements of Policy H4 of the London Plan, which says that the strategic target is for 50 per cent of all new homes delivered across London to be genuinely affordable. Similarly, LP Policy LP36 expects 50% on-site provision on all large sites, a tenure split of 80% rented / 20% intermediate. This Policy also states that the provision of affordable housing should be discussed at an early stage with the Council's Housing Development Manager and local Registered Providers (RPs) so that local housing priorities in terms of tenure, size of units and affordability can be best met.
48. On the information before me, the agreed position between the main parties is that based on viability, the proposal can only support 5 on-site affordable housing units. These would comprise 3 units for London Affordable Rent and 2 units for Shared Ownership.
49. The Council states that it requires evidence of discussions with a RP to confirm whether provision has been maximised, this includes fully exploring funding opportunities, confirmation that the tenure, mix and design of the affordable housing are acceptable, as required by LP Policy LP36 and set out in the Affordable Housing Supplementary Planning Document.
50. Irrespective of the above, there is no signed and dated legal agreement before me to secure the provision of on-site affordable housing. The proposal,

therefore, fails to make any provision for affordable housing and conflicts with London Plan Policy H4 and LP Policy 36 of the LP.

51. The Council's RfR also refers to Policy LP 30 of the LP. However, this relates to Health and Wellbeing and therefore is not directly relevant to this main issue.

Living conditions of neighbours

52. 187A and 187B Waldegrave Road - Block B would broadly align with the siting of these existing single-storey dwellings and although Block B would be three storeys, the upper two storeys would be set back from the side boundary of these dwellings. Given this arrangement, Block B would not be unacceptably overbearing on these existing dwellings.
53. The main outlook of the single-storey dwellings is west towards the railway line with a secondary outlook from the bedrooms towards the rear. The proposed extension to No. 189 would incorporate rear windows and amenity space which would face west but not directly towards the existing dwellings. Furthermore, because the windows and outdoor areas associated with these existing dwellings are largely enclosed by boundary treatments, the extent of any additional overlooking would be tolerable.
54. 191 Waldegrave Road - The outlook of the kitchen window from this property is limited by the existing rear projection of 189 Waldegrave Road. Similarly, the bedroom located in the centre of the building has a limited outlook and light levels because of the position of the rear facing window between two outriggers. The outlook of the bedroom on the rear elevation of the outrigger is limited because of the modest size of this window relative to the bedroom this serves.
55. 191-201 Waldegrave Road - Block B would extend across the rear of residential accommodation at these properties. Despite its three storey height, Block B would achieve an acceptable degree of separation from the existing development to the east. Whilst Block B would change the outlook from the rear of the properties along 191-201 Waldegrave Road, this would be of a building with an acceptable scale and design. Because of these factors, Block B would not be unduly dominant or result in any unacceptable visual harm in views from the rear of the properties at 191-201 Waldegrave Road.
56. 201-207 Waldegrave Road - The flank (east) elevation of Block C would face the rear of the properties at 201-207 Waldegrave Road. Block C is part two storey and part three storey, with the three-storey element set back and the two-storey being closest to the properties along Waldegrave Road. Block C is sited in a similar position as the existing car workshop relative to the boundary and the flank elevation would be a comparable length. The increase in height of Block C relative to the existing workshop would not be significant. Also, in part, the east elevation would be softened by the intervening Sycamore tree. Therefore, in views from the rear of properties 201-207 Waldegrave Road, Block C would not be unacceptably dominant or oppressive.
57. Block C would incorporate windows along its east elevation. The ground floor windows would not cause any overlooking because of the intervening boundary fence.
58. However, and notwithstanding some existing mutual overlooking, the first floor windows along the east elevation of Block C, would directly face some of the

properties to the east. In particular, because of their close proximity and height, these would be particularly intrusive by introducing an unacceptable degree of overlooking. This would significantly undermine the living conditions of the ground floor accommodation and amenity areas associated with these properties. It is suggested that this impact could be mitigated by requiring the partial opaque glazing of these windows and restricted opening. However, no such scheme is before me. Irrespective, the subject bedrooms in Block C are single aspect and I cannot be certain that such an arrangement would not unacceptably compromise the outlook and ventilation for these bedrooms.

59. Any potential overlooking from the first floor balcony in Block C would be addressed by a glazed privacy screens. Also, the roof terrace would be sufficiently set back from the flank elevation such that there would be no unacceptable levels of overlooking to neighbouring flats.
60. The submitted Daylight, Sunlight and Overshadowing Report considers the potential impact of the proposed development on neighbouring properties. This is based on the BRE Guidelines within 'Site Layout, Planning for Daylight and Sunlight, which was relevant at the time the application was made.
61. In respect of sunlight, the results show that two windows fail the winter BRE Guidance. One of these windows (W1 at 209 Waldegrave Road) is shaded by a protruding floor associated with the room above and already receives limited amounts of sunlight. As such, the proposed arrangement is unlikely to have any significant impact on this window. However, the proposal would have a major impact on sunlight received at a rear window which serves a bedroom at 191 Waldegrave Road.
62. The daylight results show that most of the surrounding properties will continue to receive daylight. Although 5 of the assessed windows fail the Vertical Sky Component test, based on overall internal daylight analysis, the relevant rooms are anticipated to continue to receive adequate levels of daylight.
63. Although one of the surrounding gardens would suffer some overshadowing, any adverse effect associated with this would be minor.
64. As already stated, the appeal site is in a mixed use area which includes nearby commercial uses, along a busy road. There is also a railway line to the west of the appeal site. Accordingly, I am not persuaded that the introduction of the residential use including its outdoor amenity areas and any associated plant, would generate an unacceptable level of noise and disturbance to the detriment of neighbours. Given that the proposal would replace an extant car related commercial use with a car free development, this in itself is likely to reduce the potential for noise and disturbance.
65. Nevertheless, due to the arrangement of Block C relative to 201-207 Waldegrave Road, the proposal would introduce an unacceptable degree of overlooking and loss of privacy to the occupiers of some of these properties. Also, the proposed development would have an adverse impact on sunlight received for a bedroom at 191 Waldegrave Road. Therefore, the development would harm the living conditions of neighbours and is contrary to LP Policies LP8, LP30 and LP39. Together, these policies seek to ensure that proposals safeguard the living conditions of neighbours, including loss of privacy to existing homes or gardens.

Impact on existing tree

66. The proposal is supported by an Arboricultural Survey, Impact Assessment and Method Statement ('Tree Report'). This includes an assessment of T5, a mature Sycamore tree, which is located to the east of the existing workshop at the appeal site.
67. The Council's Tree Officer has suggested that because T5 is multi-stemmed and spreads over the boundary and requires heavy pruning works, this should be removed and replacement landscaping arranged. However, T5 is on land in separate ownership to the appeal site and is being retained.
68. Proposed Block C would be taller than the existing workshop. Even so, T5 would broadly align with part of this building, which is located away from its windows and balconies, and subject to the measures set out in the Tree Report, this tree could be retained during and post development.
69. Consequently, the proposal would not result in damage to or the loss of T5. As such, I find no conflict with LP Policy LP 16, which seeks to ensure that new development protects, respects and contributes to and enhances trees and landscapes.

Drainage

70. London Plan Policy SI 13 says that development proposals should avoid, or minimise, contributing to all sources of flooding and without increasing flood risk elsewhere and aim to achieve greenfield runoff rates and ensure that surface water runoff is managed as close to its source as possible.
71. The Council's refusal was based on the response of the Local Lead Flood Authority in respect of the drainage hierarchy and runoff rates.
72. Accordingly, the appellant's updated Flood Risk Assessment and Drainage Strategy V04, confirms that in accordance with the drainage hierarchy, the scheme would incorporate Sustainable Drainage Systems. This includes rainwater harvesting in the form of water butts to allow watering of communal gardens and the inclusion of Green/Blue roofs. Permeable paving is also proposed. This will be tanked if the ground is not suitable for infiltration.
73. Whilst no infiltration testing has been undertaken, a second design has been provided based on an assumed infiltration rate in the revised Flood Risk Assessment and Drainage Strategy V04. Infiltration testing could be secured by way of a pre-commencement condition if the appeal succeeds.
74. Furthermore, as a consequence of the inclusion of Green/Blue roofs and raingardens in the design, the proposed runoff rate has been reduced to 2.0 l/s for a 1 in 100yr + 40% rainfall event, which is acceptable to the Council.
75. Therefore, and subject to conditions, the proposal would accord with Policy SI 13 of the London Plan and similar aims of LP Policy LP 21.

Fire safety

76. In the interests of fire safety and to ensure the safety of all building users, Policy D12 of the London Plan requires major development proposals to include a Fire Statement.

77. Whilst the submitted Fire Safety Design Strategy does not specifically reference Policy D12 of the London Plan, it does address the areas which require consideration under this Policy and is an independent fire strategy detailing how the development proposal will function in terms of a number of areas in respect of fire safety.
78. The Council is concerned that the restricted access to the rear of the site would render Blocks B and C unsafe in the event of a fire. The Fire Safety Design Strategy acknowledges that there is poor access to the rear portion of the development, resulting in all parts of the proposal not being within 45m of the position of the fire appliance. Therefore, a fire main is proposed to provide firefighters with water for firefighting purposes. This, along with the requirement for a fire risk assessment when the development is complete, could be secured by planning conditions.
79. The Fire Safety Design Strategy has been produced by a third party, suitably qualified assessor. Therefore, I am satisfied this is adequate. Furthermore, there is no requirement for the appellant to provide a fee for the independent review of the Fire Safety Design Strategy under the current development plan.
80. For the above reasons, the proposal accords with Policy D12 of the London Plan and Policy D5 part B, which says development should be designed to incorporate safe and dignified emergency evacuation for all building users.

Energy Conservation

81. Together, the Energy and Sustainability Statement and supporting Summary Report, demonstrate a water saving target of up to 105 litres or less per person per day, which could be secured by a planning condition if the appeal succeeds.
82. The proposed carbon reduction measures along with an obligation in a UU for financial contributions towards carbon offsetting, would secure the Council's zero carbon requirement for the development.
83. The UU to secure a financial contribution towards carbon offsetting is necessary in order to make the development acceptable in planning terms, directly related to the development, and reasonable in scale and kind. This accords with the tests for legal agreements, as set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations (as amended).
84. On the information before me, the Energy and Sustainability Statement and supporting Summary Report have been undertaken by a suitably qualified person and are acceptable. There is also no current development plan policy requirement for the appellant to provide a fee for the independent review of these documents.
85. Based on the above, and other measures set out in the Energy and Sustainability Statement, the proposed development would be of a sustainable design and construction to mitigate the likely effects of climate change.
86. As such, the proposal would be able to meet the requirements of LP Policy LP 22, which amongst other things, seeks to ensure development includes measures to improve energy efficiency. Consequently, the development would also meet the climate change adaption requirements of LP Policy LP 20.

Other considerations

87. I acknowledge that there is a need and demand for additional housing in London. Also, the Framework states that planning policies and decisions should promote and support the development of underutilised land and buildings. This is further confirmed in paragraph 128 of the Framework, which says that decisions should support development that makes efficient use of land, taking into account: the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it; local market conditions and viability. However, this also needs to take in to account the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use and the desirability of maintaining an area's prevailing character and setting, along with the importance of securing well-designed and beautiful, attractive and healthy places. Based on my findings on the main issues, the proposal fails to achieve some of these objectives.
88. Nevertheless, the proposal would deliver new dwellings, these would make a modest but important contribution towards the Council's supply of housing. This supports the Government's objective of significantly boosting the supply of homes, as set out in the Framework. There would also be direct and indirect social, economic and environmental benefits associated with such a proposal. Together, these are important considerations and benefits that are of significant weight in favour of the proposal.

Planning Balance and conclusion

89. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise.
90. The proposal would not harm the character and appearance of the area. Also, the location of the appeal site is able to support a car free development without resulting in any unacceptable parking stress or highway safety implications. Furthermore, the proposal would not harm a tree near the site; makes adequate provision for drainage and is acceptable with regard to fire safety and meeting the Council's requirements in respect carbon reduction, water saving and energy efficiency. The proposal would also support new housing and associated benefits.
91. I have also found that the loss of employment land has not been clearly justified. The proposal fails to make any provision for affordable housing and would also harm the living conditions of neighbours. The harm associated with these matters and conflict with the development plan and similar aims of the Framework, attract substantial weight.
92. Having taken account of the other considerations in support of the proposal to which I attach significant weight, I do not consider these to be sufficiently forceful to outweigh the harm and conflict with the development plan I have identified.
93. Consequently, in the circumstances of this case, the material considerations do not justify a decision other than in accordance with the development plan taken as a whole. Indeed, none of my three areas of development plan conflict, were

they to be assessed in isolation, would be outweighed by the other considerations identified. I, therefore, conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR