



Appeal Decision

Site visit made on 18 February 2025

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th March 2025

Appeal Ref: APP/U5930/W/24/3352302

1A Hampton Road, London E11 4BZ

- 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 Sajid Ali of Landmark London Network Limited against the decision of Waltham Forest London Borough Council.
 - The application Ref is 240798.
 - The development proposed is construction of 1 x 2 storey building and 1 x 1 storey building, including excavation of basement to create 2 x 1 bedroom single dwelling houses with associated soft and hard landscaping, refuse/recycle waste bin and bicycle storage. Installation of front boundary fence.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address of the appeal site varies between the planning application form, decision notice and other appeal documents. I have used the address as given on the planning application form as this accurately represents the location of the appeal site.
3. The Government has published its Housing Delivery Test results alongside the publication of a revised National Planning Policy Framework (The Framework) in December 2024. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the comments made in reaching my decision.

Main Issues

4. The main issues are the effect of the proposal on the:
 - Character and appearance of the area;
 - Living conditions of future residents with regards to outlook, light, amenity space and access;
 - Trees and biodiversity; and
 - Planning obligation requirements.

Reasons

Character and Appearance

5. The appeal site is a vacant yard with a building to the rear. It is located on Hampton Road which consists of attractive residential terraces, and adjoins the

rear of a more substantial terrace on Grove Green Road. The proposed dwelling to the front of the site would respect the building line of Hampton Road. Due to the existing building on the rear of the site and the relationship with the rear elevation of the terrace on Grove Green Road which is of a mixed character, the proposed tandem layout of development would also not be unduly incongruous, even given the differing layout compared to terraces on Hampton Road and Rhodesia Road.

6. However, the front elevation of the proposed dwelling facing onto Hampton Road would contrast uncomfortably with the streetscape. Given the location of the appeal site at the end of the terrace, a differing modern design may be appropriate. Nevertheless, the use of zinc cladding for the bay window is not characteristic of this area, and due to the size of the bay this would give it an overly prominent character that would not be mitigated through the use of matching brickwork on the remainder of the elevation. The design of the bay is also unfortunate, as the scale of the bay structure and the elongated vertical emphasis of the 3 windows jars with the nearby terrace. The projection of the bay above the flat roof would also appear as a contrived and clumsy feature.
7. I note the Council's concerns about the subservience of the front dwelling in relation to the terrace. However, the appeal site may be capable of containing a smaller scale building due to the location of the site at the end of the terrace, as well as the relationship with the rear of Grove Green Road which includes rear offshoots and buildings of a simpler design and smaller scale. Nevertheless, this does not override my concerns about the design of the front elevation.
8. Notwithstanding my conclusions in respect of the layout of the proposal, I conclude that the dwelling to the front would be of an incongruous design with subsequent significant harm to the character and appearance of the area. The proposal would therefore be contrary to Policy D4 of the London Plan 2021 and Policy 53 of the Waltham Forest Local Plan Part 1 2024 (the Local Plan) with regards to delivering high quality design.
9. The Council refers to Policy D1 of the London Plan, but this relates to the preparation of area assessments and development plans, and is therefore not relevant to this appeal.

Living Conditions

10. The dwelling to the rear of the site would be served by sunken courtyards to the front and rear of the building. The courtyard to the rear would be surrounded by structures of a height that would lead to an overly enclosed and oppressive character and would receive little, if any, sunlight. The courtyard to the front would have a more open aspect, but even then due to its sunken nature and the height of surrounding means of enclosure it would have an unacceptably enclosed and claustrophobic outlook.
11. Policy 56 of the Local Plan requires that new houses should provide a minimum of 50sqm of private external amenity space per dwelling. Although this is not referred to in the Council's reason for refusal, it is clear from the Council's Officer Report that the proposal has been assessed against this policy. The appellant questions the logic of this policy, referring to a 1 or 2-bed flat or maisonette which could be approved with much less external amenity space.

12. However, Policy 56 is clear that the requirement for 50sqm of private external amenity space relates to new houses, and the separate dwellings within the proposal would fall within that category. The appellant has provided no mitigating circumstances to demonstrate why the requirements of the development plan should not be followed in the case of the appeal proposal.
13. The appellant refers to Policy D6 of the London Plan and emphasises that the proposal would significantly exceed the minimum standards of that policy. However, the standards of Policy D6 in respect of private outdoor space are only applicable where there are no higher local standards in the borough Development Plan Documents. On that basis, the requirements of Policy 56 of the Local Plan take precedence over those of the London Plan.
14. The Council refers to the extent of proposed hard surfacing within the site. However, this matter could be addressed by a condition requiring the submission of alternative details and does not therefore represent a reason to dismiss the appeal.
15. The path leading to both properties would be enclosed and narrow, and would not be a particularly welcoming route to the flat to the rear. However, it would be gated and therefore secure, and I do not consider that issues relating to the access is sufficient to warrant refusing planning permission.
16. Notwithstanding my conclusions on surfacing and access, I conclude that neither the external amenity areas would be of the size required by development plan policy, and that the amenity areas for the dwelling to the rear would not provide a suitable outlook or levels of light with significant harm to the living conditions of future residents. The proposal would therefore be contrary to Policy 56 of the Local Plan with regards to the extent and quality of external amenity space.

Trees and Biodiversity

17. There is a tree to the front of the site which would be lost as part of the proposal. However, this tree is of poor quality and makes a very limited contribution to the streetscape. Given the existence of established street trees along Hampton Road, the loss of this poor quality tree to the front of the site would not represent sufficient reason to withhold planning permission.
18. However, there are established trees in neighbouring gardens to the rear. Although these trees are not protected and are not readily visible from the public realm, they make a significant contribution to the visual amenity of the garden areas to the rear of the terraces as well as contributing to the biodiversity of the area.
19. These trees are located in close proximity to the proposed building to the rear, and at least one of them overhangs the appeal site. The roots and canopies of the trees may be affected by the existing building, but the proposal would involve excavations and a building of an increased height in this location. Even allowing for the smaller footprint of the proposed building and the distance from the trees, there is a significant possibility that these trees would be harmed by the excavations and scale of building proposed.
20. The appellant submits that this matter can be addressed by a condition requiring a tree survey and arboricultural impact assessment. However, although this may assess the impact on the trees, this does not give any certainty that the trees can

be retained or that their amenity value will not be harmed. On that basis, I do not consider that this matter can be addressed by condition.

21. The proposal includes green roofs for the buildings, but the Council has indicated that these should be biodiverse green roofs. This is a matter that could be addressed by condition and does not represent a reason to dismiss the appeal.
22. Notwithstanding my conclusions on the tree to the front of the site and the biodiversity of green roofs, I conclude that the proposal would be likely to lead to significant harm to trees close to the rear of the site, with commensurate harm to their contribution to visual amenity and biodiversity. The proposal would therefore be contrary to Policy G6 and G7 of the London Plan and Policies 77, 79 and 80 of the Local Plan with regards to the impact on trees and biodiversity.

Planning Obligations

23. The Council has requested a contribution towards walking and cycling improvements in the area. However, the appellant has questioned the necessity of this contribution as they consider that this is addressed by Community Infrastructure Levy (CIL) contributions. In response, the Council has relied on the comments of the Highways Officer, but these do not set out why this issue is not addressed through the CIL contributions. Based on the evidence before me, the Council's requirement for a planning obligation on this issue would not meet the tests of Paragraph 58 of the Framework as to whether the obligation is necessary to make the development acceptable in planning terms.
24. The appellant has questioned whether a monitoring fee for the Construction Logistics Plan (CLP) is justified. However, although a CLP may be addressed by a condition, the monitoring of this would add to the Council's costs and I consider that a requirement to contribute to these costs is justified.
25. The appellant has indicated that they are willing to enter into agreements to secure car free development by restricting future occupants from applying for parking permits, as well as highway works associated with the development. However, no agreements to this effect have been submitted with the appeal.
26. Notwithstanding my conclusions in respect of a contribution towards walking and cycling improvements, the lack of an obligation or agreement in respect of a CLP monitoring fee, car-free development and highways works means that the proposal fails to comply with Policy T4 of the London Plan and Policies 60, 63 and 65 of the Local Plan with regards to mitigating transport impacts and the CLP requirements.
27. Given my conclusions in respect of CIL, the proposal would not conflict with Policies T1, T2 and T3 of the London Plan and Policy 61 of the Local Plan in respect of walking and cycling routes. Policy 62 of the Local Plan in respect of public transport is not relevant to this main issue as this issue has not been raised in the Council's reason for refusal. However, these matters do not negate my conclusions in respect of other development plan policies.

Conclusion

28. I am mindful of the benefits of the proposal. It would add to the supply and mix of housing in an area with good access to services, but the benefits arising from a development of this scale would be limited. It would bring a vacant and unsightly site back into a productive use and may represent the efficient use of land, but this

benefit could be achieved through a development of a more suitable design and these matters are therefore a neutral consideration in the overall planning balance.

29. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR