



Appeal Decision

Site visit made on 11 March 2025

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 April 2025

Appeal Ref: APP/M9584/W/24/3349784

11 A to C Chapman Road, London E9 5DW

- 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 Gary Gladwell against the decision of the London Legacy Development Corporation.
 - The application Ref is 22/00345/FUL.
 - The development proposed is demolition of the existing light industrial buildings at 11 Chapman Road and the erection of a mixed-use block comprising 3 x Class E(g)(iii)) buildings at ground floor level and two storeys of residential accommodation above comprising 8 flats, namely 6 x one-bedroom and 2 x 2-bedroom together with rooftop amenity space and green roof.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal was refused by the London Legacy Development Corporation (LLDC), which at the time was the Local Planning Authority (LPA) for the area. On 1 December 2024 planning powers returned from the LLDC to the London Borough of Hackney. In my decision I do not differentiate between the two authorities, given their respective functions as LPA. I have used the LLDC in the banner heading above as this is the name of the LPA shown on the decision notice which is the subject of the appeal.

Background and Main Issues

3. There are four reasons for refusal, however the LLDC has confirmed that they no longer intend to pursue the third reason for refusal relating to contaminated land. Taking account of the Environmental Desk Study and Preliminary Risk Assessment (2022), subject to the imposition of conditions, the living conditions of existing and future residents would be protected in relation to potential contamination. On this basis, the proposal would accord with Policy E7 of the London Plan (2021) (LP) and Policy BN.14 of the LLDC Local Plan 2020-2026 (2020) (LLDCLP). Consequently, the main issues are:
 - the effect of the proposal on the Chapman Road Locally Significant Industrial Site (LSIS);
 - whether or not the proposal would deliver an accessible and inclusive environment; and
 - the effect of the proposal on the living conditions of future occupiers, with regard to air quality.

Reasons

LSIS

4. In accordance with LP policies E6 and E7, employment clusters are identified in LLDCLP Policy B.1. The appeal site falls within the Chapman Road LSIS. Its function is described as a mix of small-scale industrial, storage and distribution uses with supporting retail with the potential for intensification of the floorspace capacity of the existing industrial uses through modernisation of facilities and more efficient use of land through increased plot ratios. The requirements of Parts 2, 4, 6 and 7 of Policy B.1 are of relevance to the proposal, which collectively seek to ensure that the location and maintenance of the employment uses at the LSIS are protected and developed in line with its employment function.
5. The appeal site accommodates three industrial units which are proposed to be demolished and replaced with a mixed-use scheme that would include three high quality industrial units at ground floor level. It is not disputed that the proposal would result in the loss of employment floorspace at the site. In doing so, it would not protect the existing industrial floorspace capacity and there is no substantive evidence regarding existing employment numbers to clearly show that job densities at the LSIS would be protected. The three proposed units are similar in size and do not provide the same level of access and servicing as is currently provided at the site. Consequently, and even if the appeal site is not suitable for heavy industry or storage and distribution, it is not clear that the new provision would be flexible to meet the needs of a wide range of end users.
6. Even though the appellant does not own the whole of the LSIS, there is no detailed evidence of demand for the existing employment space or substantive details regarding the suitability of maintaining the employment floorspace or any overriding factors potentially inhibiting the continuation of employment use in the area covered by the appeal site. There have been recent mixed-use developments nearby and the wider area has a residential character, however this does provide justification for the loss of employment floorspace at this designated LSIS.
7. The evidence does not indicate how the existing businesses at the site would be suitably accommodated through relocation strategies or if they would occupy the new units. While the principle of mixed-use development at the site draws some policy support, and despite the smaller size of the LSIS in comparison to other designated industrial sites, it is important for the identity of Hackney Wick that small businesses such as those at the appeal site remain to contribute to a strong local economy.
8. Overall, taking the above into account, there is no substantive evidence that the proposal and the resultant loss of employment floorspace would not compromise the role and function of the LSIS, which has been designated because of its particular importance for local industrial type functions. As a consequence, the proposal would be contrary to the provisions of the National Planning Policy Framework (the Framework) in section 6 that seek a strong, competitive economy and the need to support economic growth and local business needs, allowing each area to build on its strengths.
9. To conclude on this main issue the proposal would be harmful to Chapman Road LSIS, and would conflict with LP policies E6 and E7, and LLDCLP Policy B.1. Amongst other things these policies require the designation and protection of

LSISs, taking account of the scope for intensification, co-location and substitution, which must not compromise their continued function.

Accessible and inclusive environment

10. LLDCLP Policy BN.6 requires development to deliver an accessible and inclusive environment, including accessible and adaptable dwellings and wheelchair user dwellings which include a range of measures internally and externally such as appropriate turning circles and width of corridors. The Inclusive Design Standards (2019) provides further guidance on inclusive design matters, including that consideration should be given to fixed furniture such as kitchen units so that they can be used easily by a range of end users, and that an element of cycle parking provision should be for non-standard cycles and where cycle racks are provided a section should be designed to accommodate tandems and other adapted cycles.
11. The appellant proposes that the void area shown on the submitted floor plans could be used for a lift and suggests this main issue could be overcome through an appropriately worded planning condition. However, the illustrative plan extract included in the appellant's submissions indicates that to accommodate the lift at first floor level the utility area for Flat 1 would have to be altered. While the appellant suggests that this is not material, given the range of accessible and inclusive design measures that would be required to make the scheme policy compliant, there is no clear evidence to suggest that the changes in internal arrangements could be easily reconfigured, or that this would not cumulatively fundamentally alter the proposal. As such, this is not a concern that could be rectified by a planning condition.
12. The proposal would be car-free, with no on-site parking proposed including for disabled persons, however LLDCLP Policy T.8 requires proposals to provide designated on or off-street parking bays for Blue Badge holders. The appellant indicates that the area is subject to a Controlled Parking Zone (CPZ) and suggests that an off street parking bay can be dealt with by means of a condition. However, there is no further information about the CPZ's location, the availability of spaces or if any restrictions are in place. As such it is not possible to determine whether or not the parking catchment would be appropriate for a person with disabilities, taking into account that they may experience mobility difficulties. Accordingly, on the basis of the very limited information it is unclear whether a condition on this matter would meet the relevant tests.
13. The proposal would therefore not provide for an accessible and inclusive environment and would be in conflict with LP Policy T6.1 and LLDCLP policies BN.6 and T.8. These policies include a requirement for development to respond to the needs for all users through inclusive design, including accessible and adaptable dwellings, wheelchair user dwellings and disabled persons parking.

Air quality

14. The appeal site is proximate to the A12, described as a busy road, and a concrete production facility. It also falls within the London Borough of Hackney's Air Quality Management Area, a designated area of risk where improvements to poor air quality are necessary. There is no assessment of air quality or the likely effects of the proposal on the living conditions of the future occupiers in a location where air quality is a concern and where future occupiers could be exposed to high levels of

poor air quality. I am therefore unable to establish whether the future occupiers of the proposal would be put at unacceptable risk or harm.

15. Given the existing poor air quality in the locality and the site's context, in combination with the sensitivity of the proposal which increases public exposure in an area of poor air quality, it is unclear whether the proposal is appropriate for its location. As such, a related planning condition could have the potential to nullify a planning permission. This is a matter which should be resolved before planning permission is granted rather than leaving it to a planning condition.
16. Consequently, the proposal would be harmful to the living conditions of future occupiers with regard to air quality and would be in conflict with LP Policy SI1 and LLDCLP Policy BN.11. Amongst other things, these policies require development to protect health by not creating an unacceptable risk of high levels of exposure to poor air quality.

Planning Balance

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have found the proposal to be harmful to the designated LSIS, the living conditions of future occupiers and that the scheme would not deliver an accessible and inclusive environment. I give the development plan conflict on these matters significant weight. I will now consider whether there are material considerations that would indicate that my decision should be made otherwise than in accordance with the development plan.
18. The appeal site has an untidy appearance, detracting from the character and appearance of the area, which is currently being redeveloped, featuring well-designed modern buildings. Neither party has concerns regarding the effect of the proposal on the nearby Fish Island and White Post Lane Conservation Area and given the limited intervisibility between the appeal site and the conservation area I have no clear reason to disagree. The Framework says that the creation of high-quality places is fundamental to what the planning and development process should achieve. Besides from the inclusive design conclusions identified above, aesthetically the proposal would deliver good design and would complement recent developments in the area. I give this benefit moderate weight.
19. Notwithstanding that the LLDC housing requirements are a minimum not a maximum and the considerable support for boosting the supply of homes and the contribution small sites can make, there is no substantive evidence that the provision of housing is decisive in the context of the area's housing requirement. In any event, housing is not included in the employment function of the LSIS designation or identified as a potential use at the LSIS. Consequently, the provision of eight flats to the supply and mix of housing in the area attracts limited weight.
20. The appellant proposes that permitted development rights under Class ZA could be exercised for the demolition of the buildings at the site and construction of new dwellinghouses in their place, and this represents a fallback position. Nevertheless, no further details are before me and without such information a full and detailed comparison with the appeal scheme cannot be made. It is also not possible to ascertain if it would be a realistic or probable alternative and if prior

approval would be given. Consequently, I find the suggested fallback position to have limited weight in the determination of the appeal.

21. The proposal would make efficient use of previously developed land in an accessible location. However, these matters, and any other policy compliance including flood risk, the quality of the proposed residential accommodation in respect of space standards and outdoor amenity space and living conditions of future occupiers with regard to noise and overheating are neutral factors which weigh neither for nor against the appeal scheme.
22. The proposal would result in benefits, but it would also cause harm. Weighing the two up is a matter of planning judgement. In this case, the benefits of the proposal are insufficient to outweigh the identified conflict with development plan policies.

Conclusion

23. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that indicate a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

F Harrison

INSPECTOR