
Appeal Decision

Site visit made on 3 April 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2025

Appeal Ref: APP/Y5420/W/24/3355983

15-19 Garman Road, Tottenham, London N17 0UR

- 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 Ross Inanc on behalf of HOL Properties (UK) Limited against the decision of the Council of the London Borough of Haringey.
 - The application Ref is HGY/2022/0081.
 - The development proposed is the demolition of the existing industrial buildings and redevelopment to provide a new building for manufacturing, warehouse or distribution with ancillary offices on ground, first and second floor frontage together with 10No. self-contained design studio offices on the third floor.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Unilateral Undertaking (the UU) pursuant to Section 106 of the Town and Country Planning Act 1990 has been submitted as part of the appeal to secure financial contributions towards amending a Traffic Management Order, a Carbon Offsetting contribution, and towards the Council's monitoring fees. It also includes obligations to enter into a s278 Agreement for works to the highway, to provide a Commercial Travel Plan and to support local employment. The Council were invited to make comments on the contents of this document. I will return to this matter later in my decision.

Main Issues

3. The main issue is whether the proposed development would have an adverse effect on highway safety and climate change.

Reasons

4. The appeal site comprises a range of existing buildings used for industrial, storage and distribution purposes with access off Garman Road. It sits within an area with predominantly industrial and commercial uses and buildings, particularly on this part of Garman Road.
5. The proposal seeks to demolish the existing buildings and redevelop the site to provide a new building for manufacturing, warehouse and distribution uses with ancillary offices on the ground, first and second floor frontage together with 10 self-contained design studio offices on the third-floor level. The proposal includes on-site car parking for four cars, with associated cycle parking and refuse storage facilities.

Parking Provision & Highway Safety

6. Policy SP7 of Haringey's Local Plan Strategic Policies 2013-2026, adopted March 2013 (the HLP) seeks to promote sustainable transport and tackle climate change by promoting road safety and pedestrian movement and the use of public transport, walking and cycling.
7. The proposed development would make some changes to the existing access and parking arrangements, including replacing two existing vehicle crossovers with a single access point. It would provide four parking spaces, include a disabled space and electric vehicle charging. There would also be provision for cycle parking and storage.
8. Whilst no objection has been raised to these works, the Council requested that a financial contribution is made towards amending the Traffic Management Order (the TRO) in relation to the loading bay, which is currently located in front of the proposed access and for the appellant to enter into a s278 Agreement for the works to the highway including alterations to the existing vehicle cross overs and tree planting. The Council also require a Commercial Travel Plan Statement to be submitted, which would need to be secured by the submitted planning obligation, with further details of cycle parking and storage to be secured by planning condition. The appellant does not dispute these requirements and based on the evidence before me, I find that these measures are necessary to avoid any adverse effects on highway safety and to promote sustainable travel.
9. The Council's reason for refusal also included reference to a requirement to include the provision of a Construction Management and Logistics Plan within the legal agreement. The appellant states that this did not form part of the original heads of terms and is therefore disputes that this needs to be included within the legal agreement, rather than being secured by condition.
10. The Council has not provided any specific comments on this matter and has not provided any evidence to demonstrate why this could not be secured by imposing a suitable worded planning condition. Furthermore, the Council has put forward a suggested condition and they state in their Planning Committee Report that the requirement for a Construction Management and Logistics Plan (the CMLP) could be secured by planning condition. On this basis, I am satisfied that this could be secured by condition and does not need to be included within the legal agreement.
11. Therefore, whilst I am satisfied that the CMLP and further details of cycle parking and storage provision could be secured by condition, I find that the Travel Plan, s278 Agreement and financial contribution towards amending the TRO are necessary to mitigate the effects of the proposed development on highway safety and to promote sustainable travel.

Net-Zero Carbon Emissions

12. Policy SP4 of the HLP seeks to reduce carbon emissions from new and existing buildings and requires that all new non-residential development from 2019 to be zero-carbon. Policy DM21 of Haringey's Development Management DPD, adopted July 2017 (the DMPDP) states that consideration will be given to the use of carbon offset payments, to be secured by planning obligations, where it can be demonstrated that proposals are unable to meet carbon dioxide emission reductions on-site.

13. Policy SI2 of the London Plan 2021 also requires major development to be net zero-carbon and states that where this cannot be fully achieved on-site, any shortfall should be provided, in agreement with the borough, either through a payment in lieu made to the borough's carbon offset fund, or alternative off-site delivery.
14. The appeal is supported by an Energy and Sustainability Statement which sets out how the proposed development has been designed to achieve the highest of environmental performance standards following the Energy Hierarchy as set out in the London Plan and the London Borough of Haringey's relevant policy documents. Nevertheless, it is not disputed that there would still be a carbon shortfall of approximately 27 tCO₂/year. As a result, in accordance with the above policies, the remaining carbon emissions will need to be offset.
15. In this particular case, it has been agreed that a payment of £76,950 is required to offset carbon emissions arising from the development. This is not disputed by the appellant, and I therefore find that this contribution is necessary to mitigate the effects of the proposed development on climate change.

Planning Obligation

16. I have considered the Council's requirements set out above in the light of the statutory tests contained in the Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (the Regulations) and reiterated at Paragraph 58 of the National Planning Policy Framework.
17. On the basis of the evidence before me, I find that, with the exception of the requirement of a CMLP, these requirements would be necessary to make the development acceptable in planning terms, be directly related to the development and be fairly and reasonably related in scale and kind to the development. They would therefore meet the statutory tests set out in the Regulations.
18. As outlined above the appellant has provided a Unilateral Undertaking. However, it is incomplete and has not been signed by all relevant parties. The Procedural Guide: Planning Appeals – England¹ requires the appellant, to submit an executed and certified copy of any planning obligation at the time of making their appeal. It explains that the Inspector will not delay the issue of a decision to wait for an obligation to be executed unless there are very exceptional circumstances. I am not aware of any such circumstances in this case.
19. In the absence of a planning obligation or other legal mechanism, I have given consideration as to whether the necessary obligations could instead be secured by way of a planning condition. But in that regard, the Planning Practice Guidance² states that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk.
20. No evidence has been provided to demonstrate that the delivery of the development would be at serious risk if a planning condition were not to be used. It is also not suggested by either of the main parties that a planning condition could or should be used. Therefore, there are no exceptional circumstances and the use

¹ Dated 17 September 2024

² Paragraph: 010 Reference ID: 21a-010-20190723

of a planning condition to secure the obligations would not be appropriate in this instance.

21. Consequently, in the absence of a legal agreement or other suitable mechanism, I conclude that the effects of the proposed development on highway safety and climate change cannot be appropriately mitigated. Therefore, the proposed development would conflict with Policies SP4 and SP7 of the HLP; Policy DM21 of the DMDPD; and Policies SI2 and SI4 of the London Plan 2021. Together, amongst other things, these policies seek to ensure that new development reduces carbon emissions to net zero, and where proposals are unable to meet this on-site, requires carbon offset payments to be made. They also require new development to promote the use of public transport walking and cycling.
22. The Council has also cited Policy DM13 of the DMDPD in its reason for refusal. However, this policy relates to the provision of affordable housing, which is not relevant to the proposed development.

Conclusion

23. For the reasons set out above, the appeal should be dismissed.

K Lancaster

INSPECTOR