



Appeal Decision

Site visit made on 30 April 2025

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 June 2025

Appeal Ref: APP/U5360/W/24/3357906

72 Woodberry Grove, Hackney, London N4 1SN

- 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 Virtual Clothing Solutions Ltd against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2021/3094.
 - The development proposed is the demolition of existing House of Multiple Occupation (HMO) building and the erection of a part 4, part 5 and part 6 storey building plus basement to provide 40 new HMO rooms and ancillary accommodation, plant, cycle store and landscaping works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted with their appeal a copy of a signed Unilateral Undertaking dated 19 December 2024 (UU), relating to obligations in respect to car free development; the provision of a travel plan; adherence to the Considerate Construction Scheme; and a Local Labour and Employment and Skills Plan. The Council has not raised any objections to the UU or its obligations, I shall return to the UU later in my decision. Furthermore, and despite its initial list of obligations said to be required and those referred to in its reason for refusal no.2, the Council has subsequently stated that in addition to the UU, obligations would also be required for a contribution towards primary healthcare and to provide discounted rent levels for the proposed HMO rooms. I have determined the appeal on this basis.
3. The appeal site is close to a Grade II listed building, Woodberry Down Community School (LB). Although the effect on the LB is not a reason for refusal, I have a duty under S66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 to assess the effect of the proposed development on the setting of the LB, I have therefore included this as a separate main issue. It is noted that both main parties have made their comments on the proposed development's effect on the setting of the LB, and I content that there would be no unfairness from this course of action.

Main Issues

4. Accordingly, and taking into account the issues raised within the documentation, the main issues with this appeal are:
 - The effect of the proposed development on the character and appearance of the area, with particular regard to its siting, scale and design;

- The effect of the proposed development on the setting of the nearby LB; and,
- Whether the planning obligations contained within the UU, along with obligations relating to an off-site financial contribution towards primary healthcare; and measures to control rent charges for the proposed HMO rooms are reasonable and necessary to make the development acceptable.

Reasons

Character and appearance

5. Woodberry Grove is 'L' shaped, linking Green Lanes with Seven Sisters Road, the longer section of the road is accessed from Green Lanes. The appeal site, is a detached 2 storey brick building under a pitched roof, situated on the inner side of the 'L' shaped corner. The existing building is currently said to be used as a 15-no. room HMO, it features a chamfered part on the corner and faces onto both sections of Woodberry Grove.
6. This side of Woodberry Grove, particularly between the appeal site and Green Lanes, has residential properties that mainly have a similar setback from the pavement, are two storeys high, and have pitched roofs. Although to one side, no.74 is a three-storey property with a flat roof, but this is located on the shorter section of road between the corner and Seven Sisters Road, and it is set back similarly to the existing building at the appeal site. There is much more variety in the buildings on the opposite side of the road, including a tall and wide modern building containing flats, and the Skinners' Academy, a building that has a very wide frontage onto Woodberry Grove understood to be three storeys high, and setback a reasonable distance from the pavement. Woodberry Grove also has several tall mature street trees along the pavements to either side of the road.
7. There are some very tall buildings nearby, particularly along Seven Sisters Road, including a 31-storey modern building, and some older purpose built 5 storey flats, which have a varied appearance. However, that area is notably different in its character and appearance to the appeal site, which mainly has low rise buildings that respect the building line, with pitched roofs and mostly finished in brick. Woodberry Grove is also a much lower order road than Green Lanes and Seven Sisters Road, and notwithstanding the taller buildings along the road, it has a much different character and appearance and level of activity.
8. The proposed development would replace the existing two storey building with a building having 6 no. storeys and basement level. There is no objection to the loss of the existing building, which is a relatively new building with limited architectural value, and I have not been made aware of any development plan policy that would require its retention and refurbishment.
9. The proposal would be much closer to the pavement on both sections of Woodberry Grove than the existing building, failing to respect the existing established building line, and introducing development that would appear wholly alien in terms of its forward siting. This is further exacerbated by its sharp sided design facing onto the corner, very close to the pavement, which would create a significantly dominant and enclosing feature, when approaching the corner from both directions.

10. I don't doubt that the scheme has been designed to a high standard, and its modern appearance, could in a different location be appropriate. Except for the vertical elements and the other harm identified, there is no objection in principle to a contemporary design approach or the proposed roof form at the appeal site, given the variety of buildings along Woodberry Grove.
11. Notwithstanding that it would have some lower parts on its sides that adjoin the neighbouring properties, its significant scale, would appear wholly discordant against the mainly two storey properties, along that side of the road. Its location on the corner does not serve as sufficient justification for such a dramatic change in height, particularly given the context of lower buildings in this immediate area and with it not being at a junction or intersection of roads, where such a taller building may be appropriate. Whilst it is considered that the context of building heights is changing in the wider area, this is away from the immediate context of the appeal site. Its proposed height, combined with its inappropriate siting would make the proposal incongruous in this location, and a jarring feature. This would be further compounded by the proposed development's strong vertical emphasis, reinforced by its narrow and tall shape, and the way the brick appears as columns on its front facing sides. This would harmfully contrast with the other taller buildings on Woodberry Grove that also have considerable width, giving them a strong horizontal emphasis.
12. Given the variety of external finishes, the proposed palette of external materials would ensure a high-quality finish that harmonised with both the older brick properties and the more modern buildings nearby. The proposed new landscaping could also make a positive contribution to the immediate area, and the plant and equipment would be adequately screened. Nevertheless, these aspects do not in my opinion outweigh the identified harm relating to its design, siting, and scale.
13. I have also had regard to the appeal site being within the Woodberry Down and Seven Sisters regeneration area, as set out within Policy MH1 of the Hackney Local Plan 2033, Strategic Planning, adopted July 2020 (HLP). Whilst the policy supports residential development in principle, I did not find that policy to provide an explicit support for the siting and scale of the proposed development in this case.
14. I therefore conclude that the proposed development would be harmful to the character and appearance of the area. In doing so, I find the proposed development to conflict with HLP Policies LP1 and LP17 insofar as they require new development, including taller buildings (said to be when buildings are 50% taller than the prevailing building height) to be high quality that complement historic character and context, be compatible with the existing townscape, and preserve or enhance the public realm. In addition, there would also be conflict with paragraph 135 of the National Planning Policy Framework (the Framework), which requires new development to add to the overall quality of the area, be visually attractive and sympathetic to local character and history, including the surrounding built environment.

Effect on the setting of nearby listed building

15. In addition to the statutory duty, paragraph 212 of the Framework also requires great weight to be given to the conservation of the setting of listed buildings.
16. The LB was built just after the end of the Second World War, part of the London School Plan of 1947, and it is said that no earlier schools from that plan now

survive. The listing description says the LB survives remarkably well, including its quintessentially early post-war Scandinavian-inspired styling which are said to contribute to its architectural significance. It is constructed of yellow stock brick in stretcher bond with recessed joints, quoined treatment to corners and has soldier courses above window openings.

17. The LB's frontage onto the corner of Woodberry Grove is partly opposite the appeal site. The LB extends significantly beyond its frontage onto Woodberry Grove and there are a range of buildings to its side and behind it, with different heights and roofs, which give it a strong horizontal emphasis. From Woodberry Grove, the nearest part of the LB is a two storey, flat roofed building, with lettering saying, "Welcome to Woodberry Down Primary School", it is positioned at the end of the long stretch of Woodberry Grove, and there are some street trees that help to frame this significant and prominent view of this part of the building. On the approach from Seven Sisters Road, the LB is most prominent when at the corner in the road and would mostly be seen from close-up.
18. The effect of the proposed development on the LB's setting from the corner itself, and from the Seven Sisters Road approach, would not be significant given the limited opportunities to see the LB and the proposed development together. However, the proposed development would be seen in the same context as some parts of the LB that face Woodberry Road, when approaching from the Green Lanes side. The design, siting and scale of the proposed development (as assessed above), would introduce a discordant and challenging feature having a strong vertical emphasis immediately to one side of the much lower LB, which would adversely affect the setting of the LB. I find this harm to constitute less than substantial harm in this case.
19. Although, I consider the harm to the setting of the LB would be less than substantial, it is nonetheless a level of harm to which significant weight should be attached. HLP Policy LP3 and Paragraph 215 of the Framework requires public benefits to outweigh such harm.
20. The proposal would provide a net increase of 25 no. HMO rooms in a well-connected area, make an efficient use of a small site which can be regarded as previously developed. It would incorporate sustainable design features and is said to provide biodiversity enhancements. In addition, it is said that it would reduce anti-social behaviour, although there is no substantive evidence of it occurring at present. There would also be an improvement to the quality of the managed HMO accommodation and the communal facilities. However, at most I can only attach modest weight to these collective benefits.
21. Although the main parties both said the public benefits would outweigh the harm, in light of my findings, I do not agree, and I find these collective public benefits do not outweigh the harm identified above to the setting of the designated heritage asset in this case. Accordingly, there is conflict with the heritage protection policies of the Framework.
22. I therefore conclude that the proposed development would be harmful to the setting of the LB and the proposal would conflict with the relevant parts of HLP Policies LP1 and LP3 that amongst other things require development to preserve or enhance the significance of the historic environment and the setting of heritage assets.

Developer Contributions

23. Planning obligations must satisfy the requirements of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010. These tests require obligations to be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Turning to the obligations within the UU first:

Local Labour, Construction and Skills Plan

24. The UU requires the submission of an employment and skills plan before commencing development and to carry out construction in accordance with it, including using 25% local labour, and an apprentice for every £2 million construction contract value, and a procurement plan for goods and services above £5million. LP Policy E11 says new development should support employment, skills development, apprenticeships, and other training and development opportunities. HLP Policy LP31 seeks development that provides a broad range of employment opportunities, including in construction work. Hackney's S106 Planning Contributions Supplementary Planning Document dated July 2020 (SPD) adds further detail, it says proposals for 10 dwellings or more, or development with a floorspace larger than 1,000 square metres should provide an Employment and Skills Plan, broadly as set out within the UU. I consider that this obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests within the CIL regulations 2010.

Car-free development

25. The appeal site is in a well-connected area and Manor House Station is within walking distance, and it is said to have a Public Transport Accessibility Level rating of 5. It is also within a Controlled Parking Zone, with on-street parking restrictions, limited to permit holders at certain times. Policy T6 of the LP states that car-free housing is the starting point for all new development proposals in well-connected areas. Policy LP45 of the HLP and the SPD require all new such development to be car-free to promote travel by means other than the private car. The proposed increase of 25 no. HMO rooms is likely to generate greater demand for car use. Against this policy background the proposed development should be car-free development. The submitted obligation seek to prevent occupiers of the proposed development from obtaining resident parking permits for on-street parking or parking within council car parks. However, there is no mechanism to remove the new addresses from the Traffic Regulation Order to prevent future occupiers from applying for such a permit. I therefore have some doubt as to whether the obligation would adequately ensure that the development is car free.

Travel Plan

26. The UU requires the submission of a Travel Plan to be agreed with the Council before occupation of development, and for it to be implement it on practical completion. HLP Policy LP44 requires new development to support sustainable transport initiatives such as charging points, cycle hire, car clubs and HLP Policy LP43 requires the submission of a Travel Plan for all major development. In addition, HLP Policies LP41 and LP42 promote cycling and walking in all new

development. Collectively these policies require a Travel Plan and the promotion of sustainable travel choices for occupiers of the proposed development. Although none of these explicitly require this to be through an obligation. It is noted that secure cycle parking is proposed at the appeal site and that a Travel Plan, prepared by Caneparo Associates, dated September 2021, has been provided, which includes provision for regular reviews and follow-up surveys. I cannot be certain that an obligation requiring a Travel Plan, in addition to what has already been provided would be necessary to make the development acceptable and satisfy the relevant tests. Furthermore, if necessary, a planning condition could be imposed regarding the implementation and monitoring of the submitted Travel Plan if further measures were required.

Considerate Construction Scheme

27. The UU requires the developer to register with the Considerate Construction Scheme before commencing development and adhere to it during construction. HLP Policy LP2 says development should avoid significant adverse effects upon occupiers, including noise, vibration, fumes, and odour. Furthermore, LP Policy D3 requires development to deliver an appropriate amenity and LP Policy D14 seeks to avoid significant adverse noise impacts on health and quality of life. It is also noted that a Construction Management Plan, prepared by Ridge, dated September 2021 (CMP), includes a work programme, contains measures to limit noise and vibration, and sets out hours of work. The Council has not said that the CMP is unsuitable, and even if alterations to it were required, these could be subject to a suitably worded condition. In view of this, I am not persuaded that there is sufficient justification for a planning obligation to adhere to a Considerate Construction Scheme.

28. Turning to the additional obligations that the Council say are necessary:

Control of rent charges for the proposed HMO units

29. HLP Policy LP22 says new HMO's will be supported if it can be demonstrated that rent levels will be suitable for those on low incomes, and its supporting text makes it clear that a planning agreement is required to ensure this takes effect and such rent costs are retained in perpetuity. The appellant has indicated within their supporting information that the new HMO accommodation will be offered on a low-cost basis on what they regard to be comparable rents in the surrounding area. The appellant has indicated that this would be at a discount of 20% to London Housing Allowance rates and provided a report of rents in the surrounding area as a comparison to the appeal scheme. Nevertheless, without a signed obligation there is no certainty that this can be delivered and retained in perpetuity. As such, without a signed obligation, the proposed development would be contrary to HLP Policy LP22 insofar as it requires HMO accommodation to be suitable for those on low incomes.

Primary Healthcare contribution

30. The SPD says health contributions are usually only required from developments of 50 dwellings or more, although it does say they can be required from development that has local health impacts which individually give rise to a need for additional health facilities, which can take the form of a financial contribution. In this case, the Council has not specified the particular local health impacts from the 25 no. additional HMO rooms that would likely arise to warrant a contribution from this

level of development, or justified how any such contribution would be used as possible mitigation. In the absence of any substantive evidence showing a need for a health contribution I am unable to conclude based on the information before me that there a contribution would be reasonable and necessary to make the development acceptable in this case.

Conclusion

31. In view of the above, only the Local Labour, Construction and Skills Plan would be necessary from the UU, and with there being no clause within the UU allowing any of the obligations not required to be set aside, I am not certain that the UU is reasonable and necessary to make the development acceptable. I therefore am unable to attach any weight to it. For the reasons outlined above, planning obligations have only been shown to be justified regarding car-free development, for measures to control the rent levels for the new HMO rooms, and for a Local Labour, Construction and Skills Plan. Without these obligations, the proposed development would be contrary to the relevant parts of the development plan, as set out above.

Other Matters

32. The Council has referred to the proposed development giving rise to unacceptable overlooking towards neighbouring properties, and regarding the quality of the proposed internal accommodation. Its views appear to conflict with other parts of its assessment of the proposed development contained within its report. From my own site observations, due to the position of neighbouring properties in relation to the appeal scheme, and subject to suitable obscure glazing, I am content that there would be no unacceptable effects upon privacy for neighbouring occupiers. I also have no concerns regarding the quality and size of the internal accommodation and communal areas.
33. The appellant has referred to Policies H2, D3 and GG2 of the London Plan, The Spatial Development Strategy for Greater London, dated March 2021 and various parts of the Framework in support of their appeal. It is noted that the policies support making a more intensive use of the site, optimising its potential for housing on small sites, particularly given its proximity to public transport. However, complying with these policies does not mean complying with the development plan as a whole, nor would this outweigh the above identified harm.
34. The appellants reference to paragraphs of the Framework is also noted, including the requirement to significantly boost the supply of housing. In particular the reference to paragraph 125 c) regarding substantial weight being given to using suitable brownfield land within settlements for homes, and that they should be approved unless there would be substantial harm, and paragraph 125 d) that says the development of under-utilised land and buildings should be promoted, especially if this would help to meet identified needs for housing. However, the Framework must also be read as a whole and complying with certain parts of it does not result in complying with it as a whole, particularly given the above identified conflicts. Furthermore, in accordance with paragraph 125 c) of the Framework, substantial weight cannot be given in this case to the proposed re-use of the brownfield site, because of the substantial harms that have been identified above.

35. I have been made aware of the appellant's pre-application engagement with the Council and the evolution of the proposed scheme along with the community consultation undertaken. The time taken to determine the planning application is also noted, and the appellants frustration is understood. It is regrettable that an acceptable scheme was not presented at application stage, nevertheless I have assessed the appeal scheme based on its planning merits.
36. The appellant has said that the proposed development would use renewable technologies such as heat pumps and low emission boilers; improve biodiversity; provide secure cycle parking facilities; that a caretaker would live on site to manage the accommodation; that the site can be effectively drained; and there would not be unacceptable harm to existing trees. However, these aspects are likely to be the requirements of any such well-designed scheme and they carry very limited weight in favour of the proposed development.
37. It is also said the proposed development would help take the pressure off the existing housing stock and be an improvement to the current HMO, which is said to be in a poor state of repair, provide larger rooms, enhanced communal facilities and reduce the risks of anti-social behaviour said to be occurring at the site. Be that as it may, these points do not lead me to conclude differently regarding the proposed development.

Conclusion

38. The proposed development would be harmful to the character and appearance of the area and the setting of a nearby listed building, and it would also not provide planning obligations in respect of measures to ensure low-cost rent charges for future occupiers, for the development to be car-free, and provision of a Local Labour, Construction and Skills Plan. As a result, there would be conflict with relevant policies of the development plan. In this case, I conclude that the proposal conflicts with the development plan taken as a whole, and there are no other considerations, including those raised by the appellant and the Framework, which outweigh that conflict. For the reasons outlined above, the appeal should be dismissed.

A Hunter

INSPECTOR