



Appeal Decision

Site visit made on 22 April 2025

by **C Livingstone MA(SocSci) (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th August 2025

Appeal Ref: APP/U5930/W/24/3351978

**843 Capital House, High Road Leytonstone, Leytonstone, Waltham Forest
E11 1HH**

- 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 Ray Hardy, Bloomfield (Beaux Arts) Ltd, against the decision of Waltham Forest London Borough Council.
 - The application Ref is 240646.
 - The development proposed is extension at third floor, to the rear, of existing building. To provide one additional residential unit.
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Decision

1. The appeal is allowed, and planning permission is granted for extension at third floor, to the rear, of existing building. To provide one additional residential unit at 843 Capital House, High Road Leytonstone, Leytonstone, Waltham Forrest E11 1HH in accordance with the terms of the application, Ref 240646, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos 841LHR-P-701, 841LHR-P-702, 841LHR-P-703, 841LHR-P-704, 841LHR-P-705, 841LHR-P-706, 841LHR-P-707, 841LHR-P-708, 841LHR-P-709, 841LHR-P-710, 841LHR-P-711, 841LHR-P-712, 841LHR-P-713, 841LHR-P-714, 841LHR-P-715, 841LHR-P-716A, 841LHR-P-717A, 841LHR-P-718A, 841LHR-P-719A, 841LHR-P-720A, 841LHR-P-721A.
 - 3) Prior to the commencement of the superstructure works, details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
 - 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority and TFL (via www.constructionlogistics.org.uk). The Statement shall provide for:
 - i) Access routes and parking of vehicles of site operatives and visitors;
 - ii) Temporary traffic arrangements or restrictions;
 - iii) Loading and unloading of plant and materials;
 - iv) Storage of plant and materials used in constructing the development;
 - v) Delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Preliminary Matters

2. A previous scheme for the erection of a third floor to provide one additional residential unit has been assessed at appeal. This appeal was dismissed as the Inspector found that the ceilings within the proposed dwelling would be below the minimum required height and in light of this it would not provide suitable living conditions for future occupants¹.
3. Although not included within the Council's reasons for refusal, the Officers Delegated Report highlighted that a legal agreement was required in support of the development. Therefore, the provision of a suitable legal agreement has been included as a third main issue.
4. An updated Unilateral Undertaking was submitted in support of the development as part of the appeal. The Council have had an opportunity to review and make comments on this document.

Main Issues

5. The main issues are:
 - the effect of the development on the character and appearance of the host property and surrounding area;
 - the effect of the development on the living conditions of the occupants of Flat 9 with regard to outlook; and
 - whether the development is supported by a suitable legal agreement.

Reasons

Character and Appearance

6. The appeal property is a three storey end of terrace building with accommodation in the roof space. It includes a pair of commercial units on the ground floor facing High Road Leytonstone and self-contained flats on the upper floors. The building is located on a busy commercial street comprising a mix of commercial uses and residential accommodation.
7. An extension on the second floor has recently been added above the outrigger at the rear of the property to provide two flats. The proposal involves the erection of an additional storey above this recent extension to provide an additional flat. When compared to the previous appeal scheme², the current proposal has been increased in height slightly.
8. The proposal's roof height would be higher than the outrigger extensions at adjoining properties. However, its recessed footprint, with generous set back from the side and rear elevations would reduce its bulk closest to the site boundaries and ensure that the extension would remain visually subordinate to both the outrigger and the front of the terrace.

¹ APP/U5930/W/23/3323403

² APP/U5930/W/23/3323403

9. The proposal would not be visible from views on High Road Leytonstone. Whilst it would be visible from Kirkdale Road, and the service road which runs to the rear of the site, due to its set back from the host building's parapet walls, it would not be an especially prominent addition. Further, the height of the extension would equal the ridge height of the original building and would be only slightly higher than the existing rear roof extension.
10. There is variation in the roofscape within the local area which includes a mixture of pitched, hipped and flat roofs found at nearby buildings. As such, the design of the proposal, would not appear out of context in this particular part of the street, which is varied. In this regard, it would successfully assimilate with the built context, and I note that Paragraph 135 of the Framework states that developments should be sympathetic to local character and history, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change (such as increased densities).
11. The proposed external materials, which are primarily natural slate cladding, would match the roof of the host property and would therefore reinforce the character and appearance of the street scene and surrounding area. Consequently, it would not create a precedent for other roof extensions that could cause harmful effects in this regard.
12. For the reasons detailed above the development would not have a harmful effect on the character and appearance of the host property and surrounding area. Therefore I find no conflict with Policy D4 of the London Plan 2021 (LonP) and Policies 53 and 57 of the Waltham Forest Local Plan Part 1 Shaping the Borough 2020-2035 (2024) (LP) which require that design quality is maintained and development reinforces and/or enhances local character and distinctiveness, taking into account existing patterns of development, townscape, skyline, urban form and grain, building typologies, architecture and materials.
13. Policy 57 of the LP relates to residential amenity and is not determinative in my assessment of character and appearance.

Living Conditions

14. The appeal property includes a 1-bedroom flat within the roof space (Flat 9) . This benefits from rooflights and a pair of dormers in the rear roof slope. Whilst the rooflights ensure that the flat gains good levels of natural light the main source of outlook is via the dormers, which currently allow extensive views over the flat roof to the rear.
15. The proposal would include development to the rear of the dormer windows that serve the flat in the roof. Although the proposal would create additional built form, its volume and floor area coverage are stepped back from the edge of these windows. As a result, the proposal would not be a prominent feature in views from a large proportion of this dwelling. Further, due to the proposal's alignment, views from areas within the rooms closer to the window would primarily look straight down the side of the proposal and over the adjoining open roofscape which enables wider, relatively unrestricted views. As a result, I am not persuaded that neighbouring occupiers would find the level of outlook across these rooms to be dominated by the proposal, nor would they find the impact on their living environment particularly oppressive.

16. For the reasons detailed above the appeal scheme would not have a harmful effect on the living conditions of the occupants of Flat 9 with regard to outlook. Therefore, I find no conflict with Policy 57 of the LP which requires that development should respect the amenity of neighbours by avoiding harmful impacts from the loss of outlook.
17. Policy D4 of the LonP and Policy 53 of the LP refer to design and are not determinative in my assessment of the proposal in regard to residential amenity.

Legal Agreement

18. The Council indicate that Waltham Forest falls within the 'Zone of Influence' (ZOI) for the Epping Forest Special Area of Conservation (SAC). The Council's Habitats Regulations Assessment identifies that all new residential development within this ZOI constitutes a likely significant effect on the sensitive interest features of the SAC due to increased recreational pressure, either when considered 'alone' or 'in combination' with other plans or schemes.
19. For schemes comprising one or more units of residential accommodation, a new package of costed Strategic Access Management Measures (SAMM) was prepared by the City of London Conservators of Epping Forest and was adopted in 2022, with the agreement of Natural England. The new SAMM levy requires a contribution of £627 per unit from all new residential schemes.
20. Within the Delegated Report the Council highlight that a legal agreement is required to secure a contribution of £627 towards the Epping Forest Special Area of Conservation, as well as a contribution of £1000 for the provision of walking and cycling infrastructure, £250 for monitoring the required Construction Method Statement and to ensure the development would be car-free. Based on the evidence before me the Council has provided suitable justification for the various sums sought.
21. A signed and dated Unilateral Undertaking was submitted in support of the appeal which agreed to pay the required contributions detailed above, as well as agreeing that the development would be car free. The Appellant's Solicitor also confirmed that there are tenants of the residential parts of the existing building that rent under an assured shorthold tenancy and the commercial tenants on the ground floor would not be affected. Therefore, they should not be party to the Deed. They also confirmed that their client will pay the Council's costs and provided a copy of their title register and plan.
22. I consider that the measures in the Undertaking are necessary, related directly to the development and fairly related in scale and kind. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the NPPF.

Conditions

23. I have considered the conditions put forward by the Council and I have included those that meet the tests set out at paragraph 56 of the Framework, with some minor editing of the suggested wording for precision and enforceability.
24. I have attached conditions specifying both the timescale for the initiation of the development and the approved plans in the interests of certainty. A condition regarding proposed external materials has also been attached to protect the

character and appearance of the host property and surrounding area; and a condition requiring a construction management statement has been included to protect highway safety and to ensure the free flow of traffic.

Conclusion

25. For the reasons given above the appeal should be allowed.

C Livingstone

INSPECTOR