



Appeal Decision

Site visit made on 4 August 2025

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 August 2025

Appeal Ref: APP/U5930/W/25/3365385

Land to the rear of 34-40 Hillcrest Road, Walthamstow, London E17 4AP

- 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 Argon Artan Robert Gjergji against the decision of the Council of the London Borough Waltham Forest.
 - The application Ref is 242409.
 - The development proposed is described as: "Land to rear of 34 - 40 Hillcrest Road E17 for construction of single storey building to facilitate the provision of a self-contained dwelling (bungalow) including the provision of bicycle/bin storage, rear garden amenity and associated landscaping."
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address given on the application form is 38 Hillcrest Road, but the main parties agree that 'land to the rear of 34-40 Hillcrest Road' is more accurate. Accordingly, this is the address I have used in the banner heading above.
3. The appellant submitted an updated Biodiversity Net Gain (BNG) report with the appeal. This provides additional information about but does not change the development proposed. I am thus satisfied there would be no injustice if I were to take it into account.
4. The appellant has provided suggested heads of terms for a legal agreement under section 106 of the Town and Country Planning Act 1990 and has contacted the Council about its production. However, no finalised legal agreement is before me. I will return to the implications of this where relevant below.

Main Issues

5. The main issues are:
 - the effect of the proposal on highway safety;
 - the effect of the proposal on the character and appearance of the surrounding area;
 - whether there would be satisfactory living conditions for future occupiers of the proposed bungalow, with particular reference to waste management, noise and access;
 - the effect of the proposal on the living conditions of neighbouring occupiers, with particular reference to noise and access;

- whether the statutory biodiversity net gain objective would be capable of being met;
- the effect of the proposal on the integrity of protected European sites; and
- whether the proposal includes the planning obligations necessary to make it acceptable in planning terms.

Reasons

Highway safety

6. The appeal site comprises an area of land to the rear of a group of four maisonettes. This group is separated from a similar terrace next to it by an alley leading to the rear of the properties. The alley is wide enough for a car and provides access to a series of garages/outbuildings situated at the end of the rear gardens of several dwellings along Hillcrest Road and the parallel road that backs onto it. It also provides access to the appeal site.
7. Hillcrest Road is a densely developed suburban street with designated space for cars to park on both sides along much of its length. The remaining area of carriageway is relatively narrow with reliance in some locations on dedicated spaces between parking areas to enable vehicles to pass each other. Double yellow lines in front of the entrance to the alley extend for the length of about one car between marked parking spaces. On the other side of the road, cars can park directly opposite the alley entrance.
8. Consequently, when the area surrounding the alley entrance is heavily parked, visibility for and of a car entering the street from the alley, and the space in which to perform such a manoeuvre, is constrained. If this were to be attempted in reverse gear, it would be dangerous for the reversing car, for other vehicles, including cycles, progressing along the street, for pedestrians using the footway, and for those walking down the alley to reach their homes. Vulnerable road users such as children, the elderly and the disabled would be at particular risk of harm.
9. At present, the appeal site is enclosed by a boarded fence, the layout of which provides space for cars entering the alley to turn to rejoin the road in forward gear. Hence, drivers can avoid the increased risks described above.
10. According to the plans before me, the boundary treatment around the proposed development would extend further into the alley than the existing fence, such that a significant proportion of the area currently available for turning would be enclosed. There is no pertinent evidence to demonstrate cars using the alley would still be able to turn and rejoin the road in a forward direction. Consequently, there is insufficient information to persuade me the safety risks described above could be avoided or mitigated after the development has taken place. I therefore find potential for significant harm to highway safety, even if use of the alley by cars is infrequent and irrespective of the status of the current turning arrangement.
11. I recognise the development itself would be car free so there would be few, if any, additional car movements in the alley because of it, even without a gate. I also accept use of the alley is currently shared by cars and pedestrians, including those accessing their front doors; and that this is not in itself unduly hazardous given the relatively small number of people involved, so long as cars can enter and exit the

alley in forward gear. Moreover, the additional pedestrian movements associated with one modest dwelling would not be so great as to materially change this.

12. However, these considerations do not overcome the harm to highway safety I have found, both within the alley and on Hillcrest Road, because of the uncertain effect of the proposal on the ability for cars to turn and avoid reversing into the street. I have considered the other examples of back-land development with shared access cited, but full details of their design, layout and surrounding context are not before me. Therefore, I do not know the extent to which those other examples are directly comparable to the circumstances in this appeal, and I give them little weight.
13. For the above reasons, I conclude the proposal would have a harmful effect on highway safety. This is contrary to Policies D5 and T4 of the London Plan 2021 (LP) and Policies 53, 60 and 61 of the Walthamstow Local Plan Part 1 2024 (WLP1), which require development proposals not to increase road danger, and the creation of safe and inclusive environments. It is also contrary to the National Planning Policy Framework (the Framework), which states development should be refused on highways grounds if there would be an unacceptable impact on highway safety.

Character and appearance

14. The area surrounding the appeal site is suburban and largely comprises two-storey residential buildings laid out along parallel streets. The homes are generally of modest proportions and traditional appearance, with rectangular rear gardens.
15. The new dwelling would differ from the prevailing pattern of development in its orientation, back land siting and single storey design. However, the proposed plot is large enough to accommodate a small bungalow with a modest garden, as well as adequate external space for the host dwellings. The unimposing height and scale of the new building would be clearly subservient to that of the surrounding dwellings and would not dominate views from rear windows, even if it is larger than existing outbuildings. Little of the new house would be visible from the street because of the back land location. The proposed design would assimilate with the prevailing style of homes. Window details, complementary materials, boundary treatments and soft landscaping could be secured by condition were I to allow the appeal.
16. Overall, whether or not there are local precedents for back land development, the proposal would optimise the capacity of the site for a new home, through evolution of the urban grain rather than a discordant change.
17. I saw a variety of front garden bin storage arrangements in Hillcrest Road and the storage/collection point proposed at the front of No 40 would not look out of place in that context. The proposed enclosure would be in proportion with the existing wall and could be softened by planting over time. If anything, the proposed bin store would improve the appearance of No 40's front garden compared to the current less formal arrangement. In any event, an acceptable final storage design could be secured by condition were I to allow the appeal.
18. I see no compelling reason why the siting of the proposed air source heat pump (ASHP) could not also be dealt with via condition, to ensure it is well integrated with the appearance of the new home and surrounding neighbourhood.

19. For the above reasons, I conclude the proposal would have an acceptable effect on the character and appearance of the surrounding area. Accordingly, I find no conflict with LP Policies D4 or D5, or with WLP1 Policies 6 or 53, which taken together seek good design that takes into account urban form and grain and responds appropriately to its context.

Living conditions for future occupiers

20. There is little to demonstrate the proposed arrangement for moving wheelie bins from the new bungalow to the street-front bin store would be particularly unusual in the context of this suburban neighbourhood. I find the distance to be reasonable for most users, notwithstanding the surface in the alley. Bins would generally be moved no more than twice a week so any need to wait for a passing vehicle in the alley would be occasional at most and thus not unduly inconvenient. I note the Council's waste and recycling team has raised no objection in this regard.
21. There is little to persuade me the proposed ASHP would be excessively noisy, or that an acceptable level of noise could not be secured by condition.
22. I have addressed the question of access for future occupiers of the bungalow under highway safety above. Aside from the specific safety concern I have identified, the principle of shared vehicular/pedestrian access to the new dwelling, even unlit and with the current surface, is acceptable for the reasons I have set out in that section.
23. For the above reasons, I conclude there would be satisfactory living conditions for future occupiers of the proposed bungalow, with particular reference to waste management, noise and access. Accordingly, I find no conflict with WLP1 Policies 53, 57 or 93, which require new development to respect the amenity of future occupiers and be fit for purpose, including in relation to noise, refuse and access. I also find no conflict with LP Policy D5, which seeks inclusive design.

Living conditions of neighbouring occupiers

24. For the same reasons set out under the preceding main issue, I conclude the proposal would have an acceptable effect on the living conditions of neighbouring occupiers, with particular reference to noise and access. I again find no conflict with WLP1 Policy 53 or 57, where they require new development to provide appropriate connections to neighbouring development and respect the amenity of neighbours.

Biodiversity net gain

25. BNG is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). The effect of paragraph 13 of Schedule 7A is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition ('the biodiversity gain condition') that development may not begin unless:
- (a) a Biodiversity Gain Plan has been submitted to the planning authority; and
 - (b) the planning authority has approved the plan.
26. The appellant has confirmed in their updated BNG report that the development would be subject to the biodiversity gain condition.
27. For this condition to be capable of being successfully discharged, the minimum information requirements set out in Article 7 of The Town and Country Planning

(Development Management Procedure) (England) Order 2015 must be satisfied before planning permission is granted¹.

28. The appellant's BNG report provides a plan showing the pre-development biodiversity value of the onsite habitat, as surveyed by a qualified ecologist in April 2025 and based on the statutory Biodiversity Metric. This analysis takes account of habitat degradation that occurred between January 2020 and the planning application date and calculates the baseline according to the habitats that were present on the site before then. These include vegetated garden and modified grassland. The report confirms no protected or irreplaceable habitats are present.
29. Post-intervention calculations are a matter for the BGP. The planning authority for the purposes of determining whether to approve a BGP would be the Council of the London Borough of Waltham Forest. Management/monitoring arrangements would also be considered at that stage.
30. I conclude the submitted information satisfies the minimum information requirements and the statutory BNG objective would be capable of being met.

Integrity of protected European sites

31. The appeal site is within the zone of influence of the Epping Forest Special Area of Conservation (SAC). The SAC is a European site protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). Under the Habitats Regulations, an appropriate assessment is required in relation to the effect of the development on the integrity of the site. This responsibility falls to me as competent authority in the context of this appeal.
32. It is likely the occupants of the new bungalow would make use of the site for recreational activity. On the evidence before me, the resulting increase in recreational disturbance to the SAC, alone or in combination with other plans and projects, would be likely to have a significant effect on the integrity and conservation objectives of the protected European site.
33. The Epping Forest Strategic Asset Management and Monitoring Measures (SAMMS) allows for a financial contribution per new dwelling to be put towards an agreed programme of strategic measures to mitigate the effect of new residential development on the integrity of the SAC. The appellant has indicated their willingness to make this contribution via the legal agreement mentioned above. However, this agreement has not been finalised and there is no other mechanism before me to secure the SAMMS contribution. Had the proposal been acceptable in all other respects, this is a matter I would have raised with the main parties.
34. Consequently, absent the required mitigation, I conclude the proposal would have a significant effect on the integrity of a protected European site. This conflicts with WLP Policies 10, 79 and 81, which set out the SAMMS approach to development proposals affecting the SAC. It is also contrary to LP Policy G6 and the Framework, which require adequate mitigation if significant harm to sites protected under the Habitats Regulations cannot be avoided.

¹ Planning Practice Guidance Paragraph: 011 Reference ID: 74-011-20240214

Planning obligations

35. The appellant's suggested heads of terms for a legal agreement indicate their willingness to make provision for works to the public highway, carbon off-set if necessary and monitoring. However, no finalised legal agreement is before me so there is no mechanism to secure the provisions requested by the Council.
36. I therefore conclude the proposal does not include the planning obligations necessary to make it acceptable in planning terms. This is contrary to LP Policies T3 and T4 and WLP Policies 5, 60, 61, 62, 65, 66 and 94, which together set out the Council's expectations for financial contributions and other planning obligations, including in relation to transport/highways and monitoring.

Other Matters

37. The appeal scheme before me is a resubmission of a preceding application refused by the Council following pre-application advice. I appreciate the appellant has sought to overcome the concerns previously raised. Moreover, the Framework stresses the benefits of early engagement and good quality pre-application discussion. Nevertheless, I have determined the appeal on its individual planning merits and the amendments would still result in an unacceptable impact on highway safety for the reasons I have already outlined.
38. I do not have full details of the previously consented garage scheme on the appeal site², so that has had little bearing on my decision.
39. I have had regard to other matters raised, including noise from voices, odour from bins, privacy, light pollution, access for emergency vehicles, impacts on wildlife and trees, parking and disturbance during construction. However, as I am dismissing the appeal on main issues for the reasons given above, I have not pursued these matters further.

Conclusion

40. Although I have found the proposal does not conflict with all the Policies cited by the Council in its reasons for refusal, the harms I have found nevertheless mean the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

C Carpenter

INSPECTOR

² Application Ref 190651