



Appeal Decision

Site visit made on 29 July 2025

by Ann Veevers BA(Hons) PGDip(BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2025

Appeal Ref: APP/H5390/W/24/3358164

567-569 Fulham Road and 5 Harwood Road, London SW6 1EX

- 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 Artover Limited against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref is 2023/00113/FUL.
 - The development proposed is demolition of rear part of no. 567-569 Fulham Road, and part of the facade fronting Harwood Road elevation, and demolition of the front facade of no. 5 Harwood Road, and erection of a four storey rear and side infill extension including re-building of the facade fronting Harwood Road elevation to create 8 self-contained residential flats in connection with the change of use of the upper floors from Class E to use Class C3.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address on the Council's decision notice, which was also used on the appeal form, more accurately reflects the location of the appeal site than that on the application form. I have therefore used it in the banner heading above.
3. The description of development provided on the planning application form read 'Additions to No.567-569 at first, second and third floor level on Harwood Road elevation together with demolition of No.5 Harwood Road and formation of four storey infill to match No.567-569 creating 8 no. residential units and 328 sqm of commercial floor space'. The Council changed the description to that in the banner heading above. This description is more precise and was used by the appellant for the purposes of the appeal. Consequently, I am satisfied that no party will be prejudiced by my use of it.

Main Issues

4. The main issues are:
 - the effect of the proposal on the living conditions of occupants of 565 Fulham Road, with particular regard to daylight, sunlight and outlook; and,
 - whether the proposal would accord with local development plan policies with particular regard to the best use of land, and the provision of affordable housing.

Reasons

Living conditions

5. The proposed rear extension would be of considerable height and length close to windows on the rear elevation of two flats located above ground floor commercial premises at 565 Fulham Road (no.565). I was unable to view the rear elevation of these flats at my site visit, and there are discrepancies between the Council and the appellant's accounts of the layouts of these flats. From the information available to me, it appears that one flat is on the first floor and the other is on the second and third floors of no.565.
6. An existing three-storey rear outrigger at no.565 includes two windows on its rear elevation, one belonging to the first floor flat, and one to the second floor flat. Both parties agree these are bedroom windows and that the bedroom on the second floor also has a second window to this room, although it is unclear whether this relates to a rooflight or a window on the side elevation of the outrigger.
7. The appellant's Daylight and Sunlight Assessment¹ (DSA) evaluates the proposal against several documents, including the British Research Establishment guidance² (BRE guidance). The DSA indicates that the proposed development would result in acceptable vertical sky component (VSC) parameters for daylight to the windows of all neighbouring residential properties assessed, with the exception of the first and second floor windows in the rear outrigger of no.565 (W4 and W5 in the DSA). I note the VSC to these existing windows already falls below acceptable parameters, therefore, the proposal would result in a further diminution of daylight to these rooms.
8. In terms of sunlight, the DSA provides an assessment of annual probable sunlight hours and winter probable sunlight hours to the same neighbouring residential windows assessed in terms of VSC. The DSA indicates the proposed development would provide an acceptable level of sunlight to all but two of the neighbouring windows, one of which is the same window that would also not receive acceptable daylight within the rear outrigger of no.565 (W4). The DSA concludes that the proposed development would have a noticeable impact upon sunlight to this window. Indeed, evidence suggests this room would receive approximately half annual sunlight hours post development than before, and approximately a third less sunlight hours during winter months post development.
9. It is therefore clear, from the information available to me, that occupiers of the two bedrooms with rear-facing windows within the outrigger of no.565 would notice a reduction in either daylight or sunlight, or both. However, given the second floor bedroom (W5) also has at least one other window, and that the DSA assessed this room would receive an acceptable level of sunlight in accordance with BRE guidance, I am satisfied overall, it would receive an acceptable level of daylight and sunlight. However, the first floor bedroom (W4) would fail to meet the BRE guidelines and occupiers would notice a significant reduction in the amount of daylight and sunlight received.
10. While the appellant accepts there would be less daylight and sunlight within these rooms, it is put to me that it would only be to a minor extent. I note BRE guidance

¹ Daylight and Sunlight Solutions, Daylight and Sunlight Assessment, dated 09/11/2022

² Site layout planning for daylight and sunlight: A guide to good practice, BRE 2022

should be considered flexibly and not seen as an instrument of planning policy. Paragraph 130(c) of the Framework also advises a 'flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards)'.

11. Nevertheless, the daylight and sunlight assessments in the DSA in relation to the first floor bedroom window (W4) indicate the reduction in light would not be marginal. The room would be gloomy and oppressive for occupants for most of the day throughout the year. Consequently, the proposal would result in unacceptable living conditions for occupants of this flat.
12. In terms of outlook, the proposal would introduce a three storey block close to the rear outrigger of no.565. There is an existing three storey building to the north-east of the windows on the rear-facing south elevation of the outrigger along with the blank gable wall of Fulham Town Hall to the south-east. Due to the lower two storey roof height of the existing building at 5 Harwood Road, there is currently a relatively open aspect towards the south for occupants of rooms in the rear outrigger of no.565 (W4 and W5), albeit the plans and observations at my site visit indicate there is a tall extraction flue attached to this outrigger.
13. Whilst I note the area is very built up and the outlook from some windows in residential properties would inevitably be restricted within this urban location, the proposal would result in a building of significant mass particularly close to these windows. This factor, together with the height and scale of surrounding buildings, would mean the residential occupants of no.565 would be considerably 'hemmed in' by surrounding development. The outlook from the first and second floor rear-facing outrigger windows of no.565 would be poor as it would be substantially dominated by the presence of the much taller adjoining buildings.
14. Moreover, the absence of windows in the rear elevation of the proposed building, apart from one second floor window, would add to the sense of enclosure and exacerbate the overbearing outlook from these windows. This would cause significant harm to the living conditions of the occupiers of no.565.
15. I recognise that a scheme has been approved by the Council for the redevelopment of Fulham Town Hall³ that may result in a similar harmful effect with regards daylight and sunlight to, and outlook from the first and second floor rear-facing outrigger windows at no.565. However, I am not aware of the full circumstances of this scheme, which in any event does not appear to have been implemented. Even if it was, in the event this appeal was allowed, the cumulative effect of that scheme together with the appeal proposal would be likely to exacerbate the oppressive outlook from the rear-facing outrigger windows of no.565.
16. Even if these windows serve bedrooms, principally a room for sleep, they could also usefully serve as a private room during the day for study, home working, quiet relaxation, and children's play. This would be particularly likely at the first floor flat since evidence indicates it is the only bedroom in this flat. Therefore, this factor would not alter my opinion that the outlook from the rear facing windows in the outrigger of no.565 would be unacceptably harmed.

³ Council Ref:2019/01840/FUL

17. To conclude on this main issue, for the reasons above, although the proposal would provide an appropriate level of daylight and sunlight for occupants of the second floor flat, it would not provide an acceptable level of daylight or sunlight for occupants of the first floor flat or an acceptable outlook for occupants of both flats. It would therefore harm the living conditions of occupants of no.565, with particular regard to daylight, sunlight and outlook.
18. Accordingly, the proposal would conflict with Policies DC4 and HO11 of the Hammersmith and Fulham Local Plan, February 2018 (HFLP) which, amongst other things, both seek a high standard of design, good neighbourliness, and that extensions should demonstrate there is no detrimental impact on daylight and sunlight in adjoining properties or the outlook from windows in adjoining properties. It would also conflict with Key Principle HS7 of the Council's Planning Guidance: Supplementary Planning Document, adopted 2018 which sets out the Council's key principles that will be applicable when considering development proposals, including in relation to windows and outlook.

Best use of land

19. The proposed development would provide eight self-contained flats (3no. one-bed units and 5no. two-bed units) within the upper floors of the building. The Council's concern in this regard is that the development fails to make the best use of land as required by the HFLP and the London Plan 2021 (LP). In essence, the Council suggests some of the proposed two-bed units should be replaced by one-bed units in this high density accessible location.
20. Policies D3 and GG2 of the LP both require a design-led approach to optimising site capacity. Policy H1 of the LP also sets out that boroughs should optimise the potential for housing delivery on all suitable and available brownfield sites with Policy H2 of the LP providing support for well-designed new homes on small sites (which includes the appeal site) in order to, amongst other things, diversify the mix of housing supply. Policy H10 of the LP requires that a range of housing unit sizes is provided dependent upon, amongst other factors, robust local evidence of need, the need to deliver a range of unit types at different price points, and the nature and location of the site.
21. These aims are also sought through Policies HO4 and HO5 of the HFLP, although Policy HO4 steers high density housing towards locations with high levels of public transport accessibility (PTAL) subject to an assessment of local context and design. Policy HO5, whilst providing specific percentage requirements for social, affordable rented and intermediate housing, simply states market housing development should aim to provide a mix of unit sizes including larger family accommodation. Having regard to all the above relevant policies, I find there is no specific requirement for mainly one-bed units in this location unless supported by robust local evidence of need.
22. While recognising the constraints on the site and the contribution towards providing studio and one-bed units for which there is a high level of need in the area, the Council's claim that the inclusion of two-bed units is not sought in this town centre location is not substantiated by evidence. Indeed, information taken

from the Objectively Assessed Need for Housing data⁴ indicates a projected higher demand for two-bed accommodation within the borough.

23. The site has excellent public transport links with a PTAL rating of 6a and I do not doubt that high density development in this location would be expected. The application form states the site area is 0.0279 hectares, which, using the appellant's figures equates to a residential density of approximately 296 units per hectare which the Council accepts is appropriate for its location, but that the site 'has the potential to accommodate a higher density'. However, there is no further information before me as to what would constitute a higher density or what policy conflict would arise in this respect. I note in relation to this matter that the appellant's application submission already responded to the Council's pre-application advice to increase the scale of the scheme in the interests of the appearance of the building in the context of the surrounding development, which resulted in a consequential increase in the residential capacity of the site⁵.
24. The Council draw my attention to the proposed internal layout, in particular the amount of circulation and amenity space, but I do not find either these aspects or the size of the units to be excessive. From the evidence, internal space within the building would be limited by the building's elongated form, the provision of stairwells and the existing loadbearing wall along its length. In addition, even with some flexibility applied as advocated at paragraph 130 of the Framework, the requirements of Policy D6 of the LP in relation to single aspect units and ensuring adequate living conditions for future occupants would potentially limit the number of units within the building.
25. For these reasons it has not been satisfactorily demonstrated to me that accommodating additional units within the proposed building would not require additional window openings or require significant alterations to the form of the building, which may have harmful consequences for the character and appearance of the area as well as upon neighbouring living conditions. I therefore consider it would also be likely that, even if some or all of the units were one-bed in any alternative scheme, given the constraints of the site, the overall number of units as that currently proposed would be the optimum residential capacity of the site.
26. In the absence of compelling evidence to demonstrate two-bed units would be inappropriate in this location or that increasing the number of one-bed units would be necessary, I am mindful that the relevant policies I have identified above support a mix of housing units. Furthermore, supporting text to Policy H10 of the LP states that well-designed one and two-bed units in suitable locations can attract those wanting to downsize from their existing homes, and this ability to free up existing family stock should be considered when assessing the unit mix of new development. It also indicates that whilst one-bed units play an important role in meeting housing need, they are the least flexible unit type so schemes should generally consist of a range of unit sizes, which the proposal does.
27. Bringing the above together, there is no compelling reason before me to conclude that the proposal would not result in the optimum residential capacity on the site, having regard to the location and constraints of the site. I therefore find that the proposal would make the best use of land in compliance with Policy HO4 of the

⁴ Paragraph 6.27 of appellant's appeal statement of case, excerpt of Figure 36: Full Objectively Assessed Need for Housing: Size and Tenure Mix for Hammersmith and Fulham for GLA 2016 based Central trend Migration 2016-41

⁵ Pre-application response LPA ref: 2021/03797/PRMX2 (in Appendix 1 of appellant's appeal statement of case)

HFLP and Policies D3 and GG2 of the LP which, amongst other matters, all seek to optimise site capacity through the design-led approach. As the proposed development would increase the mix and supply of housing it would also comply with Policy HO5 of the HFLP and Policies H1, H2 and H10 of the LP which are concerned with housing mix and general/small sites housing supply targets.

Affordable housing

28. The second reason for refusal on the decision notice also relates to the Council's concern that no affordable housing units are proposed. It is suggested that fully optimising the development potential of the appeal site could deliver more housing units than proposed and thus would be likely to trigger a requirement for affordable housing.
29. However, I have found no compelling reason the proposal would not optimise the residential capacity of this appeal site taking into account other constraints in relation to its location, including the provision of employment uses in town centres and the character and appearance of the area. It therefore follows that I have no reason to conclude that the appellant deliberately sought to withhold a contribution to affordable housing by proposing an artificially low number of residential units.
30. The proposal would deliver fewer than 10 new dwellings and would have a combined gross floorspace less than 1,000 square metres. The site area would also be less than 0.5 hectares in terms of the Framework's requirement in relation to the provision of affordable housing. As such, although I acknowledge the appeal site is located within an area of high affordable housing need, the proposal would not appear to meet any of the specific triggers set out in Policy HO3 of the HFLP and Policy H4 of the LP which are both concerned with affordable housing.
31. For the above reasons, I conclude that the proposal would not trigger an affordable housing requirement. As such, it would comply with Policy HO3 of the HFLP and Policy H4 of the LP which both seek the provision of affordable housing above specific thresholds. As the proposed development would increase the supply of housing it would also comply with Policy HO1 of the HFLP and Policy H2 of the LP which are concerned with general housing supply.

Other Matters

Heritage assets

32. The submitted Heritage Appraisal⁶ outlines that the appeal site is in proximity to two listed buildings, several non-designated heritage assets (including 567 to 569 itself) and is located in the Walham Green Conservation Area (CA). Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me, in determining this appeal, to have special regard to the desirability of preserving listed buildings, or their settings, or any features of special architectural or historic interest which they possess and also to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
33. Fulham Town Hall, a Grade II* listed building has a frontage to Harwood Road, immediately to the south of the appeal site, and a frontage to Fulham Road

⁶ Heritage Appraisal, The Heritage Practice, dated July 2022.

beyond 563 to 565 Fulham Road to the east. The list entry⁷ is given as Fulham Town Hall (original building and 1904-5 extension). It is a large former town hall that is currently vacant. Constructed of Portland stone with impressive Italianate and Edwardian Baroque façades, the list entry describes the interior as being exceptional for the rich panoply of finishes from both construction phases.

34. From evidence and my own observations, I consider the special interest and significance of the building are primarily derived from its historic and architectural interests. Contributing to these are its imposing architectural style and landmark status along with its former civic use and public function which link to the local community. Relevant to the appeal, special interest and significance are also derived to some extent from its busy urban setting amongst other buildings of considerable scale. Due to its frontage on two roads, the building occupies a position at the heart of the centre of Fulham, allowing its prominent status and appearance to be appreciated.
35. The appeal buildings are part of the varied urban setting of Fulham Town Hall. Although the proposed building would be taller than no.5, and different in scale and massing than the existing buildings on the appeal site, it would not weaken the visual and functional ascendancy of Fulham Town Hall. The design would be a continuation of the form and attractive architectural details of no.567 to 569. Roofscape views would be restricted between the two wings of Fulham Town Hall and of the gable elevation of its Harwood Road frontage and that of no.567 to 569; however, these are blank and featureless flank elevations and the proposed development within this part of the Grade II* listed building's setting would not diminish the ability to appreciate Fulham Town Hall's heritage significance.
36. In this overall context, I am satisfied that the proposal would provide a logical continuation of built form in this part of the town centre where the pattern of development would remain of considerable scale along the road frontage. In this regard I agree with both main parties that the proposal would be an appropriate contextual response to the setting of Fulham Town Hall and the ability to appreciate its high grade listing as a building of civic importance would be retained. Given the above, I conclude that the proposal would preserve the setting of the Grade II* Fulham Town Hall and not harm its significance.
37. To the north of the appeal site, across Fulham Road, is a public house known as Walham Green. It is a Grade II listed building, the list entry name is given as Fulham Broadway Underground Station: former entrance building and trainshed⁸ (Walham Green). Opened in 1880, the irregular cranked plan form of the entrance and trainshed is a two-storey steel frame building clad in brick with a brown faience clad façade. From the information before me the special interest and significance of this asset primarily stem from its historic and architectural interests. However, they are also derived in part from its town centre setting, arising from its physical and functional association with the London Underground and Fulham Broadway.
38. Given the location of the proposal in relation to this listed building, and that it would address Harwood Road, I find that the setting of Walham Green would be preserved, and its significance not harmed.

⁷ National Heritage List for England, List Entry Number: 1191939

⁸ National Heritage List for England: List Entry Number: 1358569

39. The CA is predominantly commercial with ground floor businesses lining the busy main thoroughfares of Fulham Road and Fulham Broadway. The varied height and proximity of buildings to each other results in enclosed views along these streets. From the evidence and what I saw, the character and appearance and thus special interest and significance of the CA are mainly derived from its tall buildings of contrasting age and architecture and their relationship with the commercial street which indicate the growth of the centre through different periods.
40. The appeal site sits at a busy intersection of roads and pedestrian crossings in a prominent location in the CA. The four storey no.567 to 569 is therefore visible in views from several roads while no.5 is visible from Harwood Road. Given the age and architectural quality of several buildings in the CA, including no.567 to 569, they have been identified as non-designated heritage assets (NDHA) by both parties, and I have no reason to reach a different view. This makes a positive contribution to the area's collective townscape value. The overall composition of no.567 to 569 contributes in a tangible and positive way to the CA's character and appearance as a whole. The façade of no.5 demonstrates the evolving architecture of the streetscape and has a neutral effect on the character and appearance of the CA.
41. The proposal would be experienced in the context of a busy and evolving commercial environment. The carefully articulated proposed four storey building would fill the gap between Fulham Town Hall and no.567 to 569 but it would not unduly upset their relationship to each other. The height of the proposal would be consistent with the height of buildings along Harwood Road and would maintain the rhythm of enclosed streets in the CA. I find that the proposal would preserve the character and appearance of the CA as a whole and not harm its significance as a designated heritage asset.

Conclusion on heritage assets

42. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have clear and convincing justification.
43. For the reasons set out above, given the scale and design of the proposal, I consider the settings of the Grade II* Fulham Town Hall and the Grade II Walham Green would be preserved. For the same reasons, the proposal would preserve the character and appearance of the CA as a whole. As such, the proposal would not harm the significance of these heritage assets and would therefore meet the statutory requirements set out in sections 66(1) and 72(1) of the Act. It would also satisfy the provisions in the Framework regarding the conservation and enhancement of the historic environment.
44. That the proposal would preserve the settings of the nearby listed buildings and the character and appearance of the CA as a whole and not harm their significance are neutral matters in the planning balance. Even if I accepted the parties' claims that there would be some enhancement arising from the proposal, despite attaching considerable importance and weight to the desirability of preserving the settings of the listed buildings, and preserving or enhancing the

character or appearance of the CA, I find that it would not outweigh the harm I have found to the living conditions of occupants of no.565, with particular regard to daylight, sunlight and outlook.

Planning obligation

45. The appellant submitted a signed and dated planning obligation (s106) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended). The s106 relates to financial contributions towards construction apprenticeships, support for local enterprises to tender in the supply chain, monitoring of a demolition and construction plan and for town centre and Fulham Regeneration Area improvements. Obligations are also sought to ensure the percentage of labour employed during construction and during 24 months of the operational phase is local, and a percentage of built costs is spent locally, as well as the provision of delivery, monitoring and travel plans and permit-free parking.
46. The approach to, and tests in relation to the use of, planning obligations are set out in the Framework⁹ and Regulation 122(2) of the Community Infrastructure Regulations 2010 (as amended). Obligations should meet all of the tests set out therein. The content and requirements of the s106 have been agreed between the two main parties and the signatories to the document. The amounts of each contribution are clearly set out in the Council's officer report. However, whilst that may be so, neither explain nor provide development plan policy justification for the basis upon which all the contributions and obligations would be made, how they have been quantified or why the contributions would satisfy these tests. I cannot therefore be certain that the obligation and its provisions meet the tests set out in the Regulations and repeated in the Framework.
47. As I have found harm in respect of the main issue, with particular regard to the living conditions of occupants of No. 565, the absence of justification for the content and requirements of the s106 is such that it is not a matter to which I give any weight as I am dismissing the appeal for other reasons and do not need to consider this matter further as it would not change the outcome of this appeal.
48. I acknowledge the appellant engaged in extensive discussions with the Council about the redevelopment of the site both at pre-application stage and during the processing of the application and much time and effort has been invested in this process. I do not dispute that the appellant believed that the Council was supportive of its proposal and was disappointed when planning permission was refused. However, these matters have had no bearing on the outcome of this appeal as I have only had regard to the planning merits of the proposal that is before me.

Planning Balance

49. The most relevant policies are wholly consistent with the aims of the Framework regarding the need to achieve well-designed places with a high standard of amenity for existing and future residents. For the reasons set out above, whilst I find the proposal would accord with local development plan policies in relation to the best use of land, and the provision of affordable housing, the proposal is in conflict with the development plan in respect of the effects on the living conditions of occupants of 565 Fulham Road, with particular regard to daylight, sunlight and

⁹ Paragraphs 56 and 58

outlook. The proposal would be contrary to Policies DC4 and HO11 of the HFLP and the development plan as a whole. I afford this conflict with the relevant policies of the development plan significant weight.

50. The Framework seeks to boost the supply of housing and has a strong pro-growth agenda. The proposal would provide for the delivery of eight new dwellings, contribute to the housing mix in the area and would be an efficient use of land on a previously developed site in a location with excellent accessibility. Therefore, I give this matter considerable weight in favour of the proposed development.
51. The proposal would also deliver time-limited economic and social benefits through the creation of construction jobs as well as longer term post construction benefits through future occupiers spending and potentially working in the local area. Given the relatively limited number of units, I attribute these factors moderate weight in support of the proposed development.
52. That the proposal would preserve the settings of the nearby listed buildings and the character and appearance of the CA as a whole and not harm their significance are neutral matters in the planning balance. Even if I accepted the parties' claims that there would be some enhancement arising from the proposal, despite attaching considerable importance and weight to the desirability of preserving the settings of the listed buildings and preserving or enhancing the character or appearance of the CA, I find that it would not outweigh the harm I have found.
53. Similarly, even if I agreed there would be no harm to living conditions of other surrounding occupants, highway, parking and refuse matters, land contamination, air quality or drainage and flood risk, these are expectations of well-designed schemes and the development plan. As such they are neutral factors rather than ones that carry positive weight in favour of the development.
54. In weighing the planning balance, from the evidence in this case, I find that the adverse impacts of granting permission would result in harmful effects on the living conditions of occupants of 565 Fulham Road, with particular regard to daylight, sunlight and outlook and that these would significantly and demonstrably outweigh the benefits of the proposal.

Conclusion

55. For the reasons set out above, the harm from the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal such that the proposal does not represent sustainable development. As well as the policy conflicts that I have identified, the proposal does not comply with the development plan as a whole, and there are no material considerations to indicate that I should determine the appeal otherwise than in accordance with the plan.
56. Therefore, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Ann Veevers
INSPECTOR