



Appeal Decision

Site visit made on 4 August 2025

by R Lawrence BSc (Hons), PGDip (TP), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2025

Appeal Ref: APP/U5930/W/25/3364606

6 Walthamstow Central Garage, Station Approach, Hoe Street, Waltham Forest, Walthamstow E17 9QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Walthamstow Community Central Ltd against Waltham Forest London Borough Council.
 - The application Ref is 242671.
 - The development proposed is: Demolition of vehicle servicing garage and construction of a part one/part three-storey building to provide 7 residential units (Use Class C3), 8 retail/commercial units (Use Class E) and a management office with associated bicycle, and refuse/recycling storage, and hard/soft landscaping.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal has been made against the failure of the Council to give notice of its decision within the prescribed time period. However, as part of the Council's initial documents, I have received an officer report which sets out that, had the Council been in a position to determine the application, it would have refused planning permission for 6 reasons. Accordingly, I have framed the main issues around these reasons, although in some cases, I have broken one reason for refusal into several main issues or merged multiple reasons into a single issue, in the interests of clarity.
3. With this in mind, the main issues are:
 - the effect of the development on highway and pedestrian safety, including whether there would be suitable servicing arrangements and having regard to the Outline Construction Logistics Plan;
 - the effect of the development on the living conditions of neighbouring occupiers at 2 to 26 Priory Avenue, with particular regard to outlook;
 - whether the proposal would provide a suitable standard of accommodation for future occupiers in terms of external private amenity space;
 - whether the proposal makes adequate provision for waste and refuse;
 - the effect of the construction phase on highway safety; and

- whether a Section 106 agreement (S106) and the obligations therein are necessary to make the development acceptable in planning terms, directly related to the development and are fairly related in scale and kind.

Reasons

Highway and pedestrian safety

- Trip movements

4. The analysis of vehicle and pedestrian movements is based on data from TRICS, a nationally recognised database of trip rates used for transport planning purposes. In this case, the TRICS data dates from 2004, selected to ensure a sufficient number of comparable sites. The Council comment that this data is somewhat dated and may not fully reflect current travel patterns. However, in relation to existing vehicle movements, the TRICS outputs broadly align with information provided by the appellant regarding the number of customer vehicles visiting the site daily. This information, however, does not appear to be supported by a formal traffic survey. Existing pedestrian movements have also been estimated based on the average number of vehicles visiting the site throughout the day.
5. For the proposed development, the TRICS sites reviewed are not car-free, although each is located in areas with high public transport accessibility. Accordingly, the figures have been adjusted to reflect increased non-vehicular movements.
6. Turning to the proposed retail use, the application proposes that the retail units are flexible units, which could be merged and not limited to a particular type of retail uses. Accordingly, the appellants figures are calculated based on an average of the predicted projected movements for each of the different types of retail uses (local shops, restaurants and offices). In assessing the predicted movements with the retail uses—specifically the potential shops—it is explained that there were insufficient comparable cases within London in the TRICS database. As a result, data from local shops across England has been used. Upon review, it is evident that all of the local shop sites used in the TRICS assessment were located in neighbourhood centres. While the highway authority accepts the necessity of using sites outside London, it objects to the inclusion of neighbourhood centre shops, arguing that such locations may generate higher trip rates than those appropriate for the appeal site. Moreover, TRICS guidance advises against using these types of sites to model town centre or edge-of-centre developments, which may further limit the reliability of the data.
7. A key part of the appellants case, in respect of highway safety matters, relates to an anticipated reduction in servicing trips. The existing business is estimated to generate around 15 delivery and service vehicles per day. The data used to predict the servicing trips associated with the retail element is based upon an average of the different identified potential uses for the units, looking at data from local shops, restaurants and offices. Of these, restaurants are anticipated to generate significantly higher servicing trips than the other uses. This may also be affected by the limited data on local shops, and the subsequent use of data from outside Greater London. Given the potential for the entirety of the retail floor space to be occupied by a single unit, or a single type of unit, which could be a restaurant use, the estimated servicing trips do not reflect a worst-case scenario. Applying the data for servicing trips, associated with a restaurant use, for the total proposed floor

area, would push the number of servicing trips over the existing, even before the residential servicing trips are taken account of.

8. In respect of the number of servicing vehicles expected for the residential element of the proposal, the Council has highlighted further potential flaws with the data. Drawing on advice from the highway authority, the Council refers to the 2014 TfL Household Freight Survey, which suggests that residential flats typically attract at least three deliveries per day—a figure that may in fact be higher given the age of the document. In contrast, the appellant's transport statement estimates just one service vehicle per day for the residential component, a figure that appears, in my view, to be particularly low. Given the wider trend towards an increase in e-commerce and deliveries to residential properties, I consider that the Council's suggested minimum figure of three service vehicles per day, is more likely to be representative of the potential trips generated. Taken together, with the potential servicing trips for the retail use, this causes significant doubt over the appellants case, that servicing movements would be reduced from the existing position.
9. The appellant anticipates a substantial increase in pedestrian movements, estimating around 200 pedestrian visits per day, compared to approximately 35 at present. The majority of these would be generated by the retail uses. The Council contests this figure and suggests that if all the retail units were occupied by shops—as opposed to other Class E uses—the number of pedestrian arrivals could be as high as 365 per day. Given the proposed flexibility, and the possibility that all retail units could be occupied by shops, I am not satisfied that the use of an average figure is appropriate, as it does not fully account for the number of pedestrian movements that might be generated by the development. Of the three types of retail use considered in the TRICS assessment, local shops are expected to generate the highest number of pedestrian movements. Accordingly, I find it particularly significant that the sites used within the TRICS database for estimating pedestrian movements for local shops were all based on neighbourhood centres, a dataset that does not accord with TRICS guidance.
10. Taking all the above into account, while I recognise that TRICS is a standard and widely used assessment tool, and in the context of this appeal provides a useful indicator for assessing the net impact on trip movements, there are clear limitations to the data. These include its age, the limited number of comparable sites, and—of particular significance in this case—the use of an average of different uses for calculating the trips associated with the residential use, as well as reliance on retail sites with different locational characteristics. Specifically, the forecast trip movements do not appear to take account of a worst-case scenario, in terms of the potential use of the Class E units.
11. Having regard to the other businesses in the immediate vicinity of the site, and slightly further afield, there appears to be no compelling reason why the floorspace would not be occupied by a single use, such as a restaurant or a food store. I appreciate that the floorspace could not both be fully occupied by a restaurant and local shop, and therefore the worst-case scenarios referenced in terms of servicing trips and pedestrian movements would not both be realised, however, the respective potential increases in servicing trips and in pedestrian movements have quite different implications.
12. Given these considerations, and the overarching importance of highway safety, I consider it necessary to give careful consideration to the potential worst-case

scenarios. Taken together, the limitations of the data and assumptions used in the transport assessment give rise to significant uncertainty regarding the accuracy of the trip generation forecasts. It is within this context that I have assessed the likely transport impacts of the proposal.

- *Off-site improvements*

13. The proposed highway improvements would be located outside the appeal site, on land owned by Transport for London (TfL). To secure these off-site works, the appellant proposes a Grampian condition requiring agreement on the scheme and landowner consent before development begins. While conditions relating to land outside the applicant's control are acceptable in principle, the Planning Practice Guidance advises that a Grampian condition should only be used where there is a reasonable prospect of the required works being delivered within the permission's timeframe. In this case, although TfL's spatial planning team has raised concerns, other TfL teams have not objected, and correspondence indicates in-principle support for the proposed improvements. This suggests there is a reasonable prospect the works could be delivered. Therefore, if the proposal were otherwise acceptable, I am content that a Grampian-style condition could appropriately secure the proposed off-site highway works.

- *Pedestrian improvements*

14. The proposal includes a new pedestrian crossing facility on Station Approach, positioned near the existing service bay. This forms part of a broader strategy to improve pedestrian safety and accessibility. Additional measures include relocating the service bay westward—closer to the Station's turn-around loop—and constructing a new footpath along the southern side of the road. Together, these improvements would establish a continuous pedestrian route where none currently exists.
15. Pedestrian movement across Station Approach is currently informal and unstructured, with individuals often weaving between disabled parking bays. The introduction of a formal crossing and a dedicated footpath would appreciably enhance pedestrian infrastructure. These improvements would benefit not only future users of the proposed development but also existing visitors to nearby shops, cafés, and the Station.
16. The strip of parking spaces on the appeal side of Station Approach presents a notable constraint. Pedestrians must currently navigate between parked vehicles, increasing the risk of conflict—particularly as pedestrian volumes rise. These spaces include disabled bays for Station users and private hotel parking, all outside the appellant's control. While both the Council and Transport for London support reducing these spaces to improve safety, there is no indication that the landowners are willing to amend the arrangements. Imposing conditions to manage these spaces would be unreasonable and unenforceable. Moreover, there is insufficient evidence to assess the impact of reduced parking on nearby businesses. Consequently, these parking spaces remain a significant and unresolved constraint.
17. Currently, the station and surrounding businesses—key pedestrian destinations—are located on the northern side of Station Approach. The proposal could shift pedestrian movement patterns significantly. However, due to a likely underestimation of pedestrian volumes, it is unclear whether the proposed

improvements are sufficient to accommodate both the anticipated increase and the altered movement patterns.

18. The Council has raised concerns about potential conflicts between the relocated servicing bay and existing crossing points. However, there are no formal crossing facilities (e.g., dropped kerbs) in the referenced location. Informal crossings do occur and may shift toward the Station's turn-around area with the relocation of the servicing bay, increasing the risk of pedestrian-vehicle conflict. While the new crossing will attract some users, many may continue to use the more direct, informal routes—particularly those accessing the Station from the southern side.
19. The proposed crossing near the relocated service bay would offer improved visibility, especially when the bay is occupied by large vehicles. It would also provide a safer, more structured crossing point for pedestrians entering from Hoe Street.
20. Despite the new facilities, informal and ad hoc crossings are likely to persist and may even increase due to higher pedestrian volumes. This underscores the need for further consideration of pedestrian behaviour and movement patterns.
21. Although no formal traffic or speed surveys have been submitted, the appellant suggests that vehicle speeds and volumes are generally low. No contrary evidence has been provided. While this may reduce the risk of conflict, it also makes informal crossings more appealing to pedestrians.
22. The appellant anticipates reduced parking demand due to the replacement of the existing business—which attracts up to 35 customer vehicles daily—with a car-free development. However, many of these vehicles are accommodated within the garage, and as such the existing business only makes a small contribution of the external parking demand. As such, the net reduction in vehicle movements is likely to be limited, and the corresponding safety benefit relatively minor—especially when weighed against the expected increase in pedestrian activity.

- *Servicing*

23. During my site visit, and while only a snapshot in time, the servicing bay was occupied by a car, with deliveries observed taking place on double yellow lines elsewhere along Station Approach. While this may not reflect typical patterns at all times, the appellant's transport assessment also references unauthorised parking along Station Approach, suggesting that such occurrences are not isolated. The servicing bay currently serves multiple businesses, but there is no data available regarding the daily volume of servicing trips for these businesses. Furthermore, there is potential for the number of servicing trips associated with the appeal site to exceed the appellant's forecasts, depending on the eventual occupiers.
24. The observed parking patterns cast doubt on the adequacy of the existing servicing bay to meet current needs. In this context, there is uncertainty as to whether the bay could accommodate any increase in servicing demand. The proposal involves relocating the servicing bay further west, closer to the Station's turn-around area, primarily to facilitate the new pedestrian crossing. However, this relocation would not increase the bay's capacity.
25. The appellant's case relies heavily on an anticipated reduction in delivery vehicle movements. However, as discussed above, there is a realistic prospect that,

depending on the end users of the retail units, delivery vehicle numbers could in fact increase. With no provision to expand servicing capacity and continued reliance on on-street servicing, there is insufficient evidence to demonstrate that the development's servicing needs could be safely and acceptably accommodated.

26. The appellant anticipates a shift towards smaller delivery vehicles and e-cargo bikes, supported by the implementation of a Delivery and Servicing Plan (DSP). While such a plan could offer some benefits, its scope would be limited: it cannot control delivery patterns for businesses outside the site, and its effectiveness in managing deliveries to individual flats is uncertain. Even within the site, the success of coordinated servicing will depend on the nature of the end users and their operational requirements. Therefore, while a DSP could be helpful, it cannot be relied upon solely to manage or prevent a material increase in servicing trips or to control the types of vehicles used.
27. Concerns have also been raised about the proximity of the relocated servicing bay to the existing car parking spaces opposite. While the relocated bay would face a greater number of spaces, the separation distance would remain broadly similar to the current arrangement. Informal parking continues to occur along the northern side of Station Approach, despite double yellow lines, and at the time of my visit, the spaces opposite the proposed bay were fully occupied. There is no substantive evidence to suggest that relocating the bay would materially affect access to these spaces.

- *Highway safety summary*

28. The proposal is expected to result in a significant increase in pedestrian and cycle movements along Station Approach, particularly on its southern side. These users—especially pedestrians—would be vulnerable to the adverse impacts arising from inadequate servicing arrangements and increased potential for conflict with vehicles.
29. While the scheme includes desirable improvements such as a formal pedestrian crossing and a new footpath, there is insufficient evidence to adequately demonstrate that these measures would be sufficient to safely accommodate the projected increase in pedestrian movements. Similarly, there is considerable uncertainty regarding the capacity of the existing servicing bay to absorb a potential rise in servicing trips. The bay currently serves multiple businesses, yet there is a notable lack of detail on its current usage and future demand. Crucially, the ability to manage or control its use through this application is very limited.
30. The appellant anticipates a reduction in servicing activity and a shift toward smaller delivery vehicles, supported by a Delivery and Servicing Plan (DSP). However, the effectiveness of such a plan would be constrained by factors outside the appellant's control, including the nature of future occupiers and servicing needs of other businesses. As such, there is no clear and substantive evidence that the proposed arrangements would mitigate the risk of increased servicing-related conflict.
31. Cyclists, who are expected to become a more prominent user group following the introduction of new residential and commercial uses, would also be reliant on Station Approach and exposed to similar risks.
32. Taken together, the lack of certainty around both pedestrian and servicing capacity would give rise to a credible risk of conflict between different users. I am not

satisfied that the proposal would avoid unacceptable harm to pedestrian or highway safety. Given the importance of highway safety, it is necessary to adopt a precautionary approach.

33. Accordingly, the proposal would conflict with Policies 61, 63, 64 and 66 of the Waltham Forest Local Plan Part 1 (2024), which seek to manage vehicle traffic and minimise the adverse impacts of deliveries and servicing. I have also had due regard to the National Planning Policy Framework (the Framework), which refers to development being prevented or refused if there would be an unacceptable impact on highway safety.

Living conditions of neighbouring occupiers

34. The proposed development, comprising a three-storey building with intermittent single-storey elements intended to break up the massing, would extend along the full length of the rear boundary of properties numbered 2 to 26 Priory Avenue. This would result in a marked increase in bulk and scale compared to the existing single-storey structure.
35. At present, these properties benefit from modest rear gardens that enjoy a fairly high degree of privacy and separation from the adjacent Station forecourt and commercial units. This is largely due to the enclosed nature of the gardens and the limited height of the existing building, which allows for an open outlook and avoids a sense of enclosure.
36. While the proposed height would be broadly comparable to the existing residential buildings on Priory Avenue, and back-to-back relationships are not uncommon in urban environments, the development would nonetheless represent a significant change from the current arrangement. The appeal site's central location within a high-density area does lend itself to closer building relationships. However, the existing boundary wall and building, despite their presence, are of modest height and do not currently give rise to significant adverse impacts.
37. Of particular concern are the separation distances between the proposed development and the rear elevations of the Priory Avenue properties, which would be quite limited. Although the inclusion of single-storey sections offers some mitigation, several properties—including Nos. 6 and 8 Priory Avenue—would directly face a continuous three-storey elevation with minimal articulation or visual relief. This would lead to an overbearing-built form for those neighbours resulting in an undue sense of enclosure.
38. The Urban Design Supplementary Planning Document recommends a minimum back-to-back separation distance of 18 metres for developments of this scale. The proposed scheme falls significantly short of this guidance, aligning more closely with standards applicable to two-storey buildings. No compelling justification has been provided for such a departure from established design principles, and the proposed arrangement would be harmful to the living conditions of occupants of properties 2 to 26 Priory Avenue.
39. While the submitted Daylight and Sunlight Assessment indicates compliance with BRE guidelines, and the Council has not raised objections on these grounds, this does not mitigate the harm that I have found from the positioning of the development in relation to neighbouring buildings and the amenity of their occupants.

40. Proposed variations in external materials, such as the use of light brick, are intended to soften the visual impact. However, these measures would be insufficient to counterbalance the substantial increase in bulk and mass. Moreover, differences in ground level—particularly at the eastern end of the site—would exacerbate the impact, as the proposed building does not step down adequately to respond to the topography.
41. Taking all of the above into account, I find that the proposed development would result in a material deterioration in the living conditions of neighbouring occupiers at 2 to 26 Priory Avenue, particularly in terms of outlook as it would give rise to an undue sense of enclosure and overbearing impact. As such, the proposal conflict would conflict with Policy 57 of the adopted Waltham Forest Local Plan LP1 (2024), which seeks to ensure that development avoids harmful impacts on privacy, outlook, daylight/sunlight, and enclosure.

Standard of accommodation

42. London Plan Policy D6 sets out minimum standards for private outdoor space, applicable where no higher local standards are specified in Borough Development Plan Documents. In this case, Policy 56 of the Waltham Forest Local Plan LP1 (2024) establishes more stringent local requirements, mandating a minimum of 10 sqm of external amenity space per dwelling, with each individual space achieving a minimum depth and width of 1.5m.
43. Each of the proposed residential units would be provided with private external amenity space, in the form of terraces or balconies. However, the quality, dimensions, and usability of these spaces vary considerably across the scheme.
44. Flats 3 to 6 would be served by external amenity spaces that fall considerably below the 10 sqm minimum threshold set out in Policy 56 of the Waltham Forest Local Plan LP1. In addition to their insufficient area the shallow depth of these spaces would significantly constrain their functionality, particularly in terms of accommodating outdoor furniture or providing space for activities such as drying clothes. No alternative private amenity space is proposed for these units, which would compound the deficiency.
45. By contrast, Flats 2 and 7 would benefit from additional external amenity space that generally meets the required standards in terms of depth and width. Although parts of their provision include sections of reduced depth, and the overall floor area falls marginally short of the 10 sqm requirement, these spaces are, on balance, considered sufficient to meet the needs of future occupiers.
46. The Council has raised concerns regarding the use of privacy screens within the external amenity areas. However, these screens are positioned at the ends of the terraces and balconies and would not materially compromise the usable depth of the spaces. Their height would allow for partial outlook above, while also providing a degree of privacy and enclosure—beneficial features given the site's dense urban context.
47. Although some public realm space is proposed adjacent to the development, this would not constitute private or defensible amenity space. Furthermore, while the site's central location is acknowledged, and there is good access to nearby public open spaces—including Walthamstow Town Square Gardens—these factors do not override the requirement for high-quality private external amenity space. Public

open space, however well-designed and accessible, does not function in the same way as private outdoor areas that support everyday domestic activities such as sitting out, gardening, or drying clothes.

48. Reference has been made to the London Housing Supplementary Planning Guidance, which allows for internal space to compensate for a lack of private outdoor space in exceptional circumstances. However, no such exceptional circumstances have been demonstrated in this case.
49. I understand that a previous iteration of the scheme, was considered acceptable in terms of external amenity space, despite certain flats not meeting the policy requirements. However, I also understand that the proposal has since been amended, and it is unclear whether such a shortfall was present in that scheme. In any event, that scheme was also dismissed and I am required to assess the proposal before me on its own merits.
50. In light of the above, the proposal would fail to provide an adequate standard of accommodation for future occupiers in respect of private external amenity space. The shortfall in size and usability of the terraces and balconies serving several units, particularly Flats 3 to 6, would result in a substandard living environment. The proposal therefore would conflict with the requirements of London Plan Policy D6 and Policy 56 of the Waltham Forest Local Plan LP1 (2024), both of which seek to ensure that new residential development provides sufficient, high-quality private outdoor space to support the health and wellbeing of future residents.

Waste and refuse

51. The proposed development includes two refuse collection points, each of which would require collection vehicles to stop twice in the vicinity of existing on-street parking, a turning area, and a cycle hub, in addition to servicing existing residential properties along Station Approach. These locations appear suitably positioned in relation to Station Approach, and the appellant has confirmed that the drag distances to these points fall comfortably within the Council's recommended standards.
52. The Council has raised concerns regarding the adequacy of the refuse store areas, specifically whether they can accommodate the required bin types and dimensions. However, the appellant has provided confirmation in their final comments that the proposed storage areas are sufficient, and there is no substantive evidence to suggest that the refuse storage provision would be deficient in terms of capacity.
53. One of the refuse stores, located adjacent to the existing cycle hub, would require the removal of a bollard to facilitate access for collection vehicles. This would necessitate agreement with the landowner through a separate process outside the scope of this appeal. The bollard is understood to serve a safety function, preventing conflict between vehicles and cyclists accessing the hub. In the absence of confirmation from the landowner, it remains uncertain whether the bollard could be removed or repositioned in a way that maintains cyclist safety. Nonetheless, there is no evidence to suggest that an alternative solution for accessing the refuse store could not be secured, if necessary, through the imposition of a planning condition.
54. The submitted site layout plan, which includes the turning area in front of the Station and forms the basis for the swept path analysis, does not appear to

accurately depict the kerb line or the geometry of the turning area. The swept path analysis shows significant overlap between refuse vehicle movements and pedestrian areas, the central roundabout, and other tracking paths. As a result, it does not convincingly demonstrate that a refuse vehicle could turn around within the designated area without reversing or performing complex manoeuvres along Station Approach. Furthermore, the second collection point, located beyond the turning circle, appears to require vehicles to travel past the turning area, potentially obstructing access to the Station car park if a vehicle is parked opposite the refuse store. The swept path analysis does not show how such a vehicle would then exit the site.

55. I am mindful that Station Approach already accommodates waste collection for existing residential and commercial properties, including high-rise flats. While I do not have detailed information on the current collection arrangements, despite the issues I have highlighted, it is reasonable to conclude that a workable solution for the proposed development could be achieved.
56. While there are some unresolved technical matters—particularly relating to access and swept path analysis—these do not amount to insurmountable barriers. Subject to the imposition of appropriate planning conditions to secure final details of refuse storage and collection arrangements, I am satisfied that the development could make appropriate provision for waste and recycling. Accordingly, the proposal would comply with Policy 57 of the Waltham Forest Local Plan LP1 (2024), which seeks to ensure development respects the amenity of both existing and future occupiers, and Policy 93, which requires adequate waste management provision in new developments.

Construction

57. The appeal site is located within a busy urban setting, adjacent to a number of established businesses, public car parks, and Walthamstow Central Station. Given the intensity of activity in the surrounding area, there is a high concentration of stakeholders who could be adversely affected by the construction process. The site itself is physically constrained, with limited hardstanding and minimal space available for construction-related operations.
58. Construction is anticipated to last approximately 18 months. It is also relevant that a separate planning application is currently under consideration for the nearby Barclays Bank site. Should this be approved, concurrent construction activities of significant scale could further compound local disruption.
59. The appeal is supported by an Outline Construction Logistics Plan (CLP), which proposes several mitigation measures to manage construction-related impacts. These include:
 - deployment of traffic marshals;
 - on-site vehicle unloading within the designated hardstanding area at the front of the site and
 - scheduled, batch deliveries to reduce overall vehicle movements.
 - reduction in informal car parking on double yellow lines opposite Station Approach, following cessation of the existing use.
60. The CLP also acknowledges the limitations of planning at this stage, due to the absence of an appointed contractor.

61. The Council has raised concerns regarding the CLP, including the lack of reference to relevant policy documents, insufficient detail on vehicle movement impacts, inaccuracies in submitted plans, and limited stakeholder engagement. These shortcomings are acknowledged and require resolution. However, there is no indication that these issues are insurmountable. Importantly, the potential for the majority of servicing to occur within the site boundary, combined with the low-speed and relatively low-traffic nature of Station Approach, provides a reasonable basis for confidence that a satisfactory CLP can be secured.
62. Accordingly, should the appeal be allowed, I am satisfied that the imposition of a planning condition requiring the submission and approval of a detailed Construction Logistics Plan would ensure that the construction phase does not result in unacceptable impacts on highway safety. The proposal would therefore comply with Policy T7 of the London Plan (2021), and Policies 64, 65, and 66 of the Waltham Forest Local Plan LP1 (2024) in so far as they relate to the construction phase. Collectively, these policies require development proposals to be supported by a Construction Logistics Plan that ensures safety and minimises transport-related impacts during construction.

Section 106 agreement

63. The Council is seeking a Section 106 (s106) agreement to secure a range of planning obligations, which would come into effect should I allow the appeal and grant planning permission. It is necessary for me to consider each obligation individually to determine whether it is: necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.
64. These obligations would include:
- a footway condition survey;
 - a £30,000 contribution towards sustainable travel improvements;
 - CLP monitoring;
 - Biodiversity Net Gain (BNG) provision and monitoring;
 - Epping Forest SAC;
 - a requirement for the development to be car-free; and
 - a contribution to the Council's carbon offset fund.

- Footway condition survey

65. An obligation to secure a condition survey of the footway and carriageway at the junction of Station Approach and Hoe Street has been requested. This recommendation is reflected in both the highway authority and Transport for London's comments on the proposal. It is also referenced in the Council's statement, with a suggestion that it be included as a planning obligation. Although it is not listed within the sixth reason for refusal alongside other obligations, I have nonetheless given it due consideration given its mention elsewhere. I note that the appellant has also responded to its inclusion.

66. The purpose of the survey is somewhat unclear. The obligation appears to require notification to the landowner of any damage identified, but the evidence before me does not specify when the survey should be undertaken, nor does it include any requirement to rectify such damage. Presumably, this is because the land falls outside the applicant's ownership.
67. There is no substantive evidence before me to justify why such an obligation is necessary. I presume it relates to monitoring potential damage caused during the construction process. However, the suggested terms do not clearly achieve this aim. While notifying the landowner of any damage is undoubtedly good practice, this does not in itself justify the need for a planning obligation.
68. I see no reason why such a process—if indeed related to construction—could not be reasonably secured through a Construction Logistics Plan. On the basis of the evidence before me, I find that a separate planning obligation is unnecessary.

- Sustainable modes of travel

69. The Council is seeking a £30,000 contribution towards sustainable travel improvements, with specific reference to walking and cycling methods. The proposal would deliver a number of potential improvements to the provision for pedestrians, and cycle stores would be provided.
70. Whilst, for the reasons set out above, there is some uncertainty over the level of pedestrian movements that would be generated by the development, due to the car-free nature of the proposal together with the number of future residents and users of the development there would be a clear increase in pedestrian movements, and potentially also for cycle provision. In principle therefore, this adds some support to the need for improvements to sustainable modes of travel, such as walking and cycling. However, the proposal would, subject to an appropriate mechanism, include the direct provision of a new pedestrian footpath and crossing on Station Approach, outside the proposed development. Whilst the Council, and I, have identified some concerns as to whether this mitigation would be sufficient, there is the potential for duplication in terms of the mitigation sought, with respect of improvements towards sustainable travel.
71. There is no information before as to what projects or areas the funds would be spent on, nor is there any evidence that (save for pedestrian movements along Station Approach, discussed above) there is a deficiency or inability of existing walking and cycling infrastructure to support residents and others who would live at/use the development before me. Furthermore, there is no information as to how the figure of £30,000 has been calculated. Given this, even if I were content in principle that a contribution were justified, I cannot be certain that the contribution would be fair or reasonable.

- CLP Monitoring

72. With regard to the Construction Logistics Plan (CLP) monitoring fee, no details have been provided as to what specific forms of monitoring would be required, or why the Council would be unable to undertake such monitoring without a dedicated financial contribution. There is also a risk of duplication, given that a separate monitoring fee is already sought as part of the obligations—one of the purposes of which is to oversee compliance with the Section 106 Agreement, including the CLP.

73. Even if I were satisfied in principle that such a contribution is necessary, there is no information explaining how the figure of £750 has been calculated. As such, I cannot be certain that the amount is fair or reasonable.

- BNG provision and monitoring

74. In relation to biodiversity, the proposal includes the re-provision of habitat on site through a soft landscaping scheme, adopting a multi-functional greening approach. An additional 0.02 habitat units are to be delivered off site. Under the S106 agreement, the Council seeks:

- Registration of the site on the Biodiversity Gain Site Register.
- Completion of Habitat Creation and Enhancement Works at the application site in accordance with the Habitat Management and Monitoring Plan;
- Submission of Management Plan Monitoring Reports to the Council; and
- A financial contribution towards Biodiversity Net Gain (BNG) monitoring.

75. Monitoring is proposed at years 1, 2, 5, 10, 20, and 30. While I note that the appellant has not objected to these obligations, it is unclear why certain requirements—such as site registration on the BNG register or the implementation of on-site habitat creation and enhancement works—necessitate a planning obligation for their enforcement. Furthermore, there is no information provided regarding the amount of the financial contribution sought for BNG monitoring, nor any explanation as to why the Council could not undertake such monitoring without a dedicated contribution.

- Epping Forest SAC

76. The appeal site would result in a net increase in residential dwellings within the wider Zone of Influence (ZOI) of the Epping Forest Special Area of Conservation (SAC). This ZOI is based on the distance the majority of visitors will travel to visit Epping Forest SAC. The special interest features of the SAC are under threat from increased recreational pressure from residential developments.
77. The Council is seeking a financial contribution of £4,550.00 towards Strategic Access Management and Monitoring Strategies (SAMMs) to mitigate the impact of the development upon the Epping Forest Special Area of Conservation (SAC). Although the appellant is willing to pay this contribution, there is no completed planning obligation to secure the SAMM levy. The mitigation would not be secured as part of the appeal scheme. It follows that I am unable to conclude that the proposal, either alone or in combination with other schemes, would not have a likely significant and adverse effect on the integrity of the SAC. Consequently, I conclude that the proposal would not meet with these legislative requirements of the Conservation of Habitats and Species Regulations 2017. The scheme would therefore also be in conflict with Policy 81, which requires development proposals to contribute towards the avoidance and mitigation of adverse recreational and urban effects on the SAC.

- Car free

78. One such obligation is to secure the proposal as a car-free development. This would support the aim of encouraging a shift towards active transport modes, as

set out in Policy 62 of the Local Plan. Policy 66 provides further support, stating that the Council should seek to manage car parking effectively, including through car-free developments in areas experiencing high levels of parking stress.

79. The application site is located within the Markhouse CPZ wherein parking is restricted Monday to Saturday, 0800 hours to 1830 hours. The appellant confirms that the proposal is to be car-free, no car parking is proposed and based on the site's location, in close proximity to a busy Station, the existing pressure on parking along Station Approach, and the busy nature of the adjoining Hoad Road, I see no reason to disagree.
80. Although the appellant agrees that the development should be car-free, they question the necessity of a planning obligation. Instead, if a formal mechanism is required, they suggest that a condition securing a unilateral undertaking to prevent residents from applying for parking permits would be sufficient.
81. Priory Avenue and other nearby residential streets contain designated parking bays. In the absence of a legal agreement preventing future residents from applying for permits, I consider there to be a significant likelihood that they would seek to do so in order to benefit from nearby parking. As such, I find that a formal legal mechanism is necessary to secure the development as genuinely car-free.
82. Planning Practice Guidance (PPG) considers the use of conditions to secure planning obligations and advises that, in exceptional circumstances, a negatively worded condition requiring a planning obligation or other agreement prior to development (or at another trigger point) may be appropriate—but only where there is clear evidence that delivery of the development would otherwise be at serious risk¹. No such evidence has been presented to me. In the absence of this, I am not persuaded that a condition would be a suitable alternative to a planning obligation in this case, which should be a necessary part of the proposal.

- Carbon off-set fund

83. The appellant does not dispute the requirement to make a financial contribution to the Council's Carbon Offset Fund. However, there is currently no mechanism before me to formally secure this obligation.
84. The contribution is intended to compensate for any shortfall in achieving the required 35% reduction in carbon emissions. This requirement is clearly supported by Policy 85 of the Local Plan 1 (2024), which states that contributions to the Carbon Offset Fund will be necessary where developments fall short of the prescribed emissions reductions.
85. I am satisfied that there is a sound policy basis for this contribution. It is necessary to ensure the development complies with planning policy and is acceptable in planning terms. Moreover, the contribution would be directly related to the proposed development and its environmental impact.

- Summary

86. Based on the limited information provided, I am not satisfied that the obligations relating to the footway condition survey, sustainable travel improvements, CLP monitoring, or BNG provision and monitoring meet the tests of necessity,

¹ Paragraph: 010 Reference ID: 21a-010-20190723

relevance, and proportionality set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. In contrast, the obligations to secure the development as car-free and to contribute to the Council's carbon offset fund and to SAMMs are justified and compliant with those tests. In the absence of a completed s106 agreement to secure these requirements, the proposal conflicts with Policies 62, 66, 81 and 85 of Local Plan 1 (2024).

87. I note that the appellant has referred to draft car-free and SAMMS contributions being available for submission to the Inspector. The appellant also states that it has been unable to prepare a s106 agreement due to a lack of information from the Council. Given that this is an appeal against non-determination, I acknowledge that meeting the Planning Inspectorate's requirement to submit a s106 agreement at the time of appeal would have been challenging. However, no s106 agreement has subsequently been provided, and I must determine the appeal based on the information currently before me.

Other Matters

88. The appellant argues that there has been a 6% increase in local housing need within Waltham Forest, and that housing delivery in the two years leading up to 2024 fell short of the target. However, there is no substantive evidence before me to demonstrate that the Council is unable to demonstrate a five-year supply of deliverable housing sites. Furthermore, the most recent Housing Delivery Test results do not indicate that housing delivery was substantially below the required level over the previous three years. It is also notable that the Local Plan was adopted relatively recently, in 2024.

Planning Balance and Conclusion

89. While I find the proposal acceptable in relation to waste and refuse management, as well as the outline construction logistics plan, significant concerns remain regarding highway safety. These are compounded by the adverse impacts on the standard of accommodation and the living conditions of neighbouring occupiers, along with the absence of a Section 106 agreement to deliver certain identified and required obligations. Taken together, and given the critical importance of highway safety, I consider these harms to be substantial and in clear conflict with the development plan when read as a whole.
90. The proposal does offer notable benefits. The delivery of seven residential units in a highly sustainable location, alongside retail and commercial space, would contribute meaningfully to the government's objective of significantly boosting housing supply. There would also be appreciable economic benefits arising from construction activity, retail employment, and future resident engagement in the local economy. The site would be located in a sustainable location.
91. Paragraph 125 of the Framework requires substantial weight to be given to the use of suitable brownfield land within settlements for housing. However, I have found that the cumulative harm arising from this proposal is substantial, and therefore the site cannot be considered suitable in this context. As such, I afford only limited weight to the benefit of brownfield land reuse in this instance.
92. In conclusion, the substantial harm identified clearly outweighs the modest benefits of the scheme. The proposal conflicts with the development plan, and there are no

material considerations that indicate the appeal should be determined otherwise.
Accordingly, the appeal is dismissed.

R. Lawrence

INSPECTOR