



Appeal Decision

Site visit made on 16 September 2025

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2025

Appeal Ref: APP/U5930/W/25/3369718

463 High Road, Leytonstone, Waltham Forest E11 4JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval to details required by a condition of a planning permission.
 - The appeal is made by Mrs Ann Burjack against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 251227 sought approval of details pursuant to condition No 15 of a planning permission for *the demolition of the existing building and the construction of a three storey building with a basement to provide retail space (use class B1, B2 and D1) at basement and ground floor and five self-contained flats on the upper floors (3 x 1 bed, 2 x 2 bed)* under Ref 202924, granted on 8 December 2021.
 - The application was refused by notice dated 14 July 2025.
 - The application sought planning permission for *the demolition of the existing building and the construction of a three storey building with a basement to provide retail space (use class B1, B2 and D1) at basement and ground floor and five self-contained flats on the upper floors (3 x 1 bed, 2 x 2 bed)* without complying with a condition attached to planning permission Ref 209294, dated 8 December 2021.
 - Condition No 15 states that: *Notwithstanding any indications on the submitted drawings, details of hard and soft landscaping for the roof garden, including garden enclosure, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, and full implemented prior to the first occupation of the building and thereafter maintained.*
 - The reason given for the condition is: *To ensure a satisfactory appearance and in the interest of local amenity and biodiversity in accordance with policies CS15 of the Waltham Forest Local Plan Core Strategy (2012), and Policies DM23, DM32, DM35 of the Waltham Forest Local Plan – Development Management Policies (2013).*
 - The details for which approval is sought are: *Green Roof, Wildflower Seed Mix, Biodiverse Seeded System with 500mm riverstone border substrate depth 150mm, 20mm drainage board, 2mm filter fleece, 3.5mm protection fleece, 150mm Ali Edging Separation, Dry System Weight: 133 kg/m² Saturated Weight: 182 kg/m², Irrigation System, Inspection Chamber, Aluminium Edge Retention (100mm x 100mm x 2.4m).*
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Decision

1. The appeal is allowed and the details submitted pursuant to condition No 15 attached to planning permission Ref 202924 granted on 8 December 2021, in accordance with the application dated 16 May 2025 and Landscape Drawing Ref 592, Green Roof to Internal Partition Detail Drawing Ref 592/01-WIP and Green Roof to Parapet Detail Ref 592/01-WIP submitted with it, are approved.

Preliminary Matters

2. Planning permission was originally granted under Ref 151013 for the development described in the banner heading, and subsequently varied by permission Ref 209294 to allow for the removal of the basement from the approved scheme. For clarity, I have used the original description of development in the banner heading.

3. The Council's Delegated Conditions Report confirmed that the development had been completed, and as a consequence the Council could not make a full assessment because details should have been approved prior to the commencement of development. While this is noted, I have proceeded to determine the appeal on its planning merits.

4. I saw on my site visit that the roof garden which has been constructed differs from the details submitted with this appeal. I have made my assessment on the basis of the appellant's submitted specification and Landscape Drawing Ref 592.

Background and Main Issue

5. The planning permission granted under Ref 202924 was subject to a number of conditions, including No 15 which required details of hard and soft landscaping for the roof garden to be submitted and approved.

6. The appellant applied for the approval of details in the form of a landscape drawing supported by the specification set out in the banner heading above. The Council considered that the submitted details failed to ensure a satisfactory appearance or to provide for local amenity or biodiversity.

7. The main issue, therefore, is the effect of approving the submitted details on the appearance of the development and on local amenity and biodiversity.

Reasons

8. The appeal site contains a recently completed three storey building at the junction of High Road and Cathall Road, comprising commercial premises at ground floor and flats above. The building has a flat roof split into two sections, one part containing photovoltaic panels, and the other a roof garden. The design of the roof garden is in dispute.

9. The Council stated that the condition was attached to ensure a satisfactory appearance and in the interest of local amenity and biodiversity. The policies referred to in the reason for the condition were from the Waltham Forest Local Plan Core Strategy 2012 and the Waltham Forest Local Plan – Development Management Policies 2013, both of which have subsequently been replaced by the Waltham Forest Local Plan Part 1: Shaping the Borough 2020-2035 Adopted 2024 (LPP1). The Council has advised that the quoted policies have been replaced by policies 53, 77 and 79 of the LPP1, which require: good design including, amongst other things, urban greening measures to maximise biodiversity; urban greening and landscape infrastructure in all major developments; and maximising opportunities to create new biodiversity features.

10. The roof garden is proposed to be predominantly hard landscaped, which the appellant has explained is a result of significant technical problems encountered with the original green roof design, including drainage and water management, and safety considerations. The Council has not disputed the technical issues raised by the appellant, and I have no reason to doubt the concerns raised, and consider it would not be appropriate to require the appellant to install a green roof which could result in future maintenance and safety issues for the building.

11. Instead, the appellant proposes to provide six steel trough style planters, containing a wildflower blanket suitable for use on green roofs. The planting would comprise a broad mix of British wildflowers including hardy plants, annuals and herbs, embedded in a nylon mesh with a moisture retention fleece. Four of the planters would

sit on a base of pebbles, with the other two located within a paved area where they would link four benches for use by residents. A handrail is proposed around the perimeter of the roof garden.

12. Given the technical difficulties associated with the roof garden's original design, I consider that the revised proposals maximise the potential for biodiversity, thereby making appropriate provision for biodiversity in accordance with policies 53, 77 and 79 of the LPP1. In reaching this conclusion, I have been mindful of the fact that sites with 100% built coverage do not lend themselves to landscape infrastructure on a significant scale.

13. Regarding the second aim of the condition, I consider that the proposed roof garden would provide a valuable shared outdoor space for residents of the building, thereby fulfilling the expectation of providing for local amenity. I furthermore consider that the roof garden would have a satisfactory appearance.

14. I therefore conclude on the main issue that the proposal ensures a satisfactory appearance and is in the interest of local amenity and biodiversity.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed.

J Heppell

INSPECTOR