
Appeal Decision

Site visit made on 8 January 2026

by **J Hobbs MRTPI MCD BSc (hons)**

an Inspector appointed by the Secretary of State

Decision date: 10 March 2026

Appeal Ref: APP/Q4245/W/25/3367833

Cloud 9, Bow Green Road, Bowdon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Dr Z Alvi against the decision of Trafford Borough Council.
 - The application Ref is 114833/OUT/24.
 - The development proposed is the erection of a 'Apartment-Home' with six units and demolition of the existing house.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Dr Z Alvi against Trafford Borough Council. This is the subject of a separate decision.

Preliminary Matters

3. On 16 December 2025, the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework). Whilst broad changes to the structure of the Framework are proposed as part of this consultation, these proposals could be subject to further change and can only be given very limited weight at this stage. It has therefore not been necessary to consult the parties on the proposed changes.
4. I have determined an appeal¹ for a similar development at the same appeal site. For clarity, the decisions are not linked and are subject to separate decisions.
5. The planning application subject to this appeal was for outline planning permission, with landscaping being the only matter reserved for subsequent approval. Therefore, details of access, appearance, layout, and scale are for determination, it is taken that any landscaping details referred to within appeal submissions are indicative and for illustrative purposes only.
6. The description of development in the banner above is duplicated from the Application Form. However, I have removed the phrase *"Consent is sought for access, appearance, scale and layout with all other matters reserved"* as this does not refer to an act of development.
7. The appellant has submitted revised proposed front elevation and proposed site plans². The proposed changes would result in the removal of the basement and

¹ Appeal Ref. APP/Q4245/W/25/3373009

² Front Elevation Drawing No ALVI#2-ZA Dated 25/10/24 and Proposed Site Plan Drawing No ALVI#24R-ZA dated 13/01/25

the entrance ramp. Combined these changes would amount to a fundamental change to the proposal, as the proposed apartment block would be reduced by a storey and the built footprint would be much reduced.

8. The Procedural Guide³ is clear that the appeal process should not be used to evolve a scheme. Despite the Council and interested parties having an opportunity to review the amended proposal, it would be unfair for me to consider the amended proposal due to the substantial differences between it and the proposed development that was before the Council when it determined the planning application. In accordance with the principles established by the Holborn Studios Ltd Judgment⁴, I will assess the proposal that was before the Council.

Background and Main Issues

9. The main issues of an appeal relate to the matters in dispute. Usually, these matters are stated on the Decision Notice. However, it would not be reasonable to refuse to address a matter in dispute solely because it was not specified on the Decision Notice.
10. The Decision Notice included two reasons for refusal relating to the effect of the proposal on the character and appearance of the area and the living conditions of neighbouring occupiers. Within its Officer's Report, the Council made it clear if obscure glazing were installed, it would have concerns with the effect of the proposal on the living conditions of future occupiers of the building. Furthermore, within its Officer's Report the Council indicated that if the planning application were to be recommended for approval a full suite of biodiversity net gain (BNG) information would be required.
11. Taking the above into account the main issues are:
- the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of occupiers of 5 and 7 Bow Green Road (Nos 5 and 7) and future occupiers of the development under construction to the south, with particular regard to privacy;
 - whether the proposal would provide acceptable living conditions for future occupiers of the proposed development, with particular regard to outlook;
 - whether the biodiversity gain condition would apply to the proposed development; and,
 - whether the information necessary to determine whether the biodiversity gain condition could be successfully discharged has been provided.

Reasons

Character and appearance

12. The area is characterised by large properties set within spacious grounds enclosed by tall boundary treatments and large gates. Most of the properties are detached but there are some examples of higher density development such as apartments and semi-detached houses within the area. Some properties in the area include basement parking with ramped accesses.

³ Procedural Guide: Planning appeals – England. For appeals relating to applications dated on or before 31 March 2026.

⁴ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

13. The proposed development includes a ramped access to basement parking. Whilst the ramp would have a shallow gradient, it would extend a significant distance forward of the proposed apartment and would span across approximately 25% of the site's frontage. Ramped accesses and basement parking in the area tend to be associated with much larger properties set within more spacious grounds. Therefore, they appear as modest features. Given the size of the ramped access, compared to the depth and width of the plot, it would be an overly prominent feature. The proposed ramped access would also be contrary to the guidance within Trafford Design Code⁵. Specifically, section APG3 where it indicates that entrances to basement parking must not be located on the principal elevation.
14. I acknowledge that the inclusion of basement parking would mean less vehicles are parked on the proposed driveway. However, the parking of vehicles on driveways in front of buildings is common in the area and would not cause harm.
15. The proposed apartment block would have a much higher footprint to plot ratio than most of the surrounding development and it would extend across almost the entire width of the plot. As such, the proposed development would not appear to be set within spacious grounds and would be contrary to the prevailing pattern of development in the wider area. Nonetheless, it would appear as the most spacious development within the wider Cloud 9 development site. There is also an extant planning permission⁶ for a pair of semi-detached houses within the appeal site, which would have a similar footprint to plot ratio. On this basis the proposal would not represent an overdevelopment of the plot. The proposed height, scale and massing of the apartment block would also be in keeping with nearby properties. Moreover, the proposed entrance gates would assimilate with others in the area. Finally, the appeal proposal would not be sited in a prominent corner plot.
16. On balance, I conclude that the proposal would have a harmful effect on the character and appearance of the area. The proposal would be contrary to Policy L2 of Development Plan Document, DPD1: Trafford Core Strategy, January 2012 (CS), and Policy JP-P1 of the Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford, and Wigan, 2022 to 2039, March 2024 (PfE). These policies indicate that proposals should conserve and respect the character of an area. The proposal would also be contrary to the National Design Guide where it indicates that well-designed new development responds positively to the surrounding context beyond the site boundary. The proposal would also be contrary to the Framework where it specifies that the creation of high quality buildings is fundamental to what the planning process should achieve.

Living conditions

17. The Council expressed a concern that the proposed dwellings would have a harmful effect on the privacy of future occupiers of Plot 5. The appellant has indicated that planning permission for Plot 5 has expired. This is not disputed by the Council and there is no evidence before me that would lead me to a different conclusion. Accordingly, when assessing the effect of the development on the living conditions of future occupiers of the proposed development to the south, I will only assess the effect on future occupiers of Plot 4.

⁵ Trafford Local Plan: Supplementary Planning Document 7 (SPD 7) – Trafford Design Code, September 2024

⁶ Planning Permission Ref. 103057/OUT/20

18. The proposed apartment block would be sited close to the boundary with Plot 4 to the south and the boundaries to Nos 5 and 7 to the north. It would include windows in the side elevations on the first and second floors. These windows would provide views over the boundary treatments and across most of the external amenity areas of Plot 4, and Nos 5 and 7 from a very short distance. I note that there are tall trees and hedges along the northern boundary, which limits views of Nos 5 and 7. However, the retention of the vegetation in its current state cannot be guaranteed in perpetuity. Therefore, without mitigation the windows in the side elevation on the first and second floors would have a harmful effect on the living conditions of occupiers of Plot 4, and Nos 5 and 7.
19. The existing property includes windows at the first floor level which serve a bedroom and two bathrooms. These windows are clearly glazed and overlook the external amenity space of Nos 5 and 7. Nonetheless, the existing property is set further back from the boundary than the proposed apartment block. Moreover, the proposed apartment block would have more windows facing toward this boundary. As such, the proposed development would cause more harm. Consequently, the existing property does not set a precedence for clear windows in the side elevation of the proposed apartment block.
20. Notwithstanding the above, if the windows in the side elevation on the first and second floors were obscurely glazed and incapable of being opened within 1.7m of the finished floor level, they would offer very limited views of neighbouring external amenity spaces. With this mitigation, the proposal would not have a materially harmful effect on the living conditions of occupiers of Plot 4, and Nos 5 and 7, with regard to privacy.
21. However, if these windows were partially obscure glazed and their opening was restricted, the outlook experienced by future occupiers of the proposed dwellings would be limited from these windows. The proposed floor plans indicate that some of the windows in the side elevation would serve bathrooms and gymnasiums. As these would be non-habitable rooms a limited outlook from these windows would not be harmful. There would also be windows and rooflights serving the bedrooms, but these would be secondary windows so a limited outlook from these windows would be acceptable.
22. Some of the windows in the side elevations would serve large open plan rooms identified as Great Rooms. Although the Great Rooms would be of a significant depth, they include a generous amount of glazing in the rear elevation. The windows in the rear elevation would not be obscurely glazed and by themselves would offer an acceptable outlook for those rooms. The windows which would be obscurely glazed in the Great Rooms would be secondary windows and therefore a limited outlook from those windows would be acceptable. Moreover, all 6 of the proposed dwellings would have a dual aspect, of windows with entirely clear glazing. Therefore, even with obscure glazing in some windows, the outlook experienced by future occupiers would be acceptable.
23. The Council has raised concerns that the proposed gymnasiums would be used as bedrooms. Whilst there is merit in the Council's assessment, the proposed floor plans specify that these rooms would be gymnasiums. A condition could be attached to a planning permission requiring the development to be constructed in accordance with specified plans, including the proposed floor plans. Although I appreciate it would be difficult for the Council to enforce these rooms being used

as gymnasiums, it would not be impossible. Therefore, I cannot conclude the aforementioned condition would be unenforceable. Furthermore, I can only assess the proposal that is before me, all non-habitable rooms could be converted to habitable rooms without the need for planning permission in the future. I will therefore proceed on the basis that the gymnasiums would be non-habitable rooms, as specified.

24. The Council has indicated that applications may be submitted to allow the windows within the gymnasiums to be clearly glazed if the rooms are converted to habitable spaces. Any future planning applications would be subject to an assessment against the development plan and material considerations. Such material considerations could include the proposed floor plans showing these rooms as gymnasiums and the living conditions of neighbouring occupiers. Therefore, allowing this appeal would not set a precedence which would require the Council to accept clear glazing of the windows in the gymnasiums in the future.
25. Given the separation between the proposed apartment block and the boundary with Marlborough House, the proposed dwellings would not have a harmful effect on occupiers of Marlborough House, with regard to privacy.
26. Whilst the proposed apartment block would be of a significant scale and massing, it would be similar to the previously approved pair of semi-detached houses. As that planning permission⁷ is extant it represents a realistic fallback position. The appeal proposal would not have a materially worse effect on the living conditions of neighbouring occupants, with regard to outlook and overshadowing.
27. A modest increase in the number of dwellings in a suburban area would not have a materially harmful effect on the amount of noise experienced by neighbouring occupants.
28. Overall, the proposal would not have a harmful effect on the living conditions of occupiers of Nos 5 and 7 and future occupiers of the development under construction to the south. Also, even with the proposed glazing, the proposal would provide acceptable living conditions for future occupiers of the proposed development, with particular regard to outlook. The proposal would comply with saved CS Policy L7 which indicates that development must not prejudice the amenity of future occupiers of the development and occupants of adjacent properties. The proposal would also be in accordance with APL3 of Trafford Design Code and paragraph 135 of the Framework. This guidance indicates that the layout of apartments should ensure that privacy for occupiers of existing development is safeguarded, and planning decisions should ensure that developments create places with a high standard of amenity.

Biodiversity Net Gain

29. Schedule 7A of the Town and Country Planning Act 1990 (TCPA) specifies that all planning permissions will be subject to a condition requiring a biodiversity gain plan to be submitted to and approved by the local planning authority. The Biodiversity Gain Requirements (Exemptions) Regulations 2024 outlines the developments which the biodiversity gain condition would not apply to. This includes where a development consists of no more than 9 dwellings, is carried out

⁷ Planning Permission Ref. 103057/OUT/20

on a site which has an area no larger than 0.5ha and consists exclusively of dwellings which are self-build or custom housebuilding.

30. I do not dispute that more than one dwelling within a development site could be self-build. There is also no substantive evidence to dispute that an association of family members has collaboratively designed the proposed dwellings. However, there is no mechanism before me which would require these individuals to live in the proposed dwellings. As such, the proposed dwellings could be sold on the open market. In this scenario, the proposed dwellings would not meet the definition of self-build and custom housebuilding as set out within the Self-Build and Custom Housebuilding Act 2015. Without an appropriate mechanism, the specified exemption would not apply, and any potential planning permission would be subject to the biodiversity gain condition.
31. Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (the DMPO) outlines the requirements for planning applications. It indicates that planning applications should be supported by a statement specifying whether the applicant believes the development should be subject to the biodiversity gain condition or not. The appellant fulfilled this requirement by claiming the self-build exemption. The Council was correct to validate the planning application as the requirements of the DMPO had been met. Nonetheless, the Council's validation of the planning application does not indicate that it accepted the exemption applied, rather it was an indication that sufficient information had been submitted to determine the planning application.
32. The DMPO specifies the information which should be provided in cases where the applicant believes that planning permission, if granted, would be subject to the biodiversity gain condition. Although the appellant maintains that the self-build exemption applies, they have submitted information that accords with the requirements of the DMPO. There are no objections to the detail of the Biodiversity Net Gain Plan⁸.
33. Planning Practice Guidance⁹ is clear that it would generally be inappropriate for decision makers to refuse an application on the grounds that the biodiversity gain objective will not be met. It goes on to explain that decision makers may need to consider more broadly whether the biodiversity gain condition is capable of being successfully discharged. There is no evidence before me that the biodiversity gain condition is not capable of being successfully discharged.
34. Overall, I conclude that the biodiversity gain condition would apply to the proposed development and the information necessary to determine whether the biodiversity gain condition could be successfully discharged has been provided. The proposal would comply with PfE Policy JP-G8 where it indicates that a biodiversity net gain will be sought through local planning activities. The proposal would also comply with Schedule 7A of the TCPA. Finally, it would be in accordance with paragraph 187 of the Framework where it indicates that planning decisions should contribute to the natural environment by providing net gains for biodiversity.

⁸ Biodiversity Net Gain Plan, Cloud 9, Bow Green Road, Report Ref. CBG-EVE-RP-01, Evelyn Ecology, September 2025

⁹ Planning Practice Guidance, Biodiversity Net Gain, Paragraph: 019, Reference ID: 74-019-20240214

Other Matters

35. The appeal site includes areas of residential garden between the existing property and Bow Green Road and along the boundary with the properties to the north. These garden areas are within urban areas and therefore do not accord with the definition of previously developed land as set out in the Framework. There is no evidence before me that either the Council or another independent party has assessed the entire site to comprises of previously developed land. Nevertheless, the site is predominantly brownfield land in an urban area.
36. The proposal would boost the supply of housing, and the redevelopment of the appeal site would make an effective use of largely brownfield land. The proposed apartment block would be close to the services and facilities necessary to support the everyday needs of future occupiers and would provide inclusive and accessible accommodation. It would also include energy efficient measures which would help reduce greenhouse gas emissions. The inclusion of gymnasiums within the apartment would support the creation of healthy communities. There would also be economic benefits associated with the construction of the apartment block and through an increased population living in the area.
37. The proposed dwellings do not comply with the definition of affordable housing provided within the Framework. Whilst they are likely to be much cheaper than the large, detached houses in the area, they would still be sold on the open market. As such, no weight is given to the proposed dwellings as affordable dwellings. Similarly, as I cannot conclude that the proposed dwellings would comply with the definition of self-build and custom housebuilding, I give no weight to the proposal assisting the Council meeting the demand for self-build properties.
38. The appeal site is not within a conservation area nor is it within an area subject to a landscape designation. There is no substantive evidence that the increase in vehicle movements and demand for parking would have a harmful effect on highway safety. There is also no substantive evidence that the increased occupation of the site would have a harmful effect on local services, such as drainage, refuse, utilities, and/or community services. The proposal also includes sufficient off-street parking. However, these are all neutral factors which neither weigh in favour nor against the proposed development.

Planning Balance

39. Paragraph 232 of the Framework is clear that existing policies should not be considered out-of-date simply because of their age. Instead, due weight should be given to them, according to their degree of consistency with the Framework. The Framework specifies that planning decisions should ensure that developments are sympathetic to local character and that the creation of high quality buildings is fundamental to what the planning process should achieve. Therefore, the conflict with CS Policy L2 and PfE Policy JP-P1 should be given substantial weight in this appeal.
40. Although the proposal complies with CS Policy L7 and PfE Policy JP-G8, there are no policies in the development plan which support development which is harmful to the character and appearance of an area. As such, there would be conflict with the development plan when read as a whole.

41. The Council can demonstrate 4.7 years' supply of deliverable housing land. In these circumstances footnote 8 of the Framework, establishes that the policies which are most important for determining the application are out-of-date. Consequently, planning permission should be granted unless any adverse impact would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The Framework also highlights particular regard should be had to key policies including securing well-designed places.
42. The Framework indicates that the Government's objective is to significantly boost the supply of homes. Also, small sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The proposed dwellings would be energy efficient and in a location which would promote the use of sustainable transport modes. Finally, the Framework indicates that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes. Even though the site is not entirely previously developed land, I ascribe substantial weight to the benefits of the proposal as a whole.
43. The Framework outlines that the creation of high quality buildings is fundamental to what the planning process should achieve. It goes on to explain that development that is not well designed should be refused, especially where it fails to reflect local design policies and Government guidance on design. Given the importance national policy places on design and the proposal would be contrary to local and national design guidance, I ascribe great weight to the harm caused by the proposal.
44. Consequently, the harm would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As such, the presumption in favour of sustainable development does not apply.
45. I acknowledge that my conclusion differs from the conclusion of another inspector on a neighbouring site¹⁰. Whilst there are similarities between the proposals, they are materially different to one another. Consequently, the weight ascribed to the harms and benefits is different. Therefore, the application of the presumption in favour of sustainable development on the neighbouring site does not mean it automatically applies to this site.

Conclusion

46. In reaching my decision, I have due regard to the Public Sector Equality Duty as set out within the Equality Act 2010. The protected characteristic of disability is relevant to a potential future occupier of the proposed development. The proposal would include a dedicated disabled parking bay which would provide suitable access for future occupiers. Notwithstanding this, the proposal would cause harm to the character and appearance of the area. It has not been demonstrated that appropriate parking facilities could not be provided within a scheme that does not harm the character and appearance of the area. This tempers the weight I ascribe to the benefit provided by the proposed dedicated disabled parking bay.
47. Consequently, the identified harm outweighs the totality of the proposal's benefits, including in terms of eliminating discrimination against persons with the protected

¹⁰ Appeal Ref. APP/Q4245/W/20/3250863

characteristic of disability, advancing equality of opportunity for those persons, and fostering good relations between them and others. It is necessary and proportionate to dismiss the appeal.

48. The proposal conflicts with the development plan, when read as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR