



Appeal Decision

Inquiry Held on 16-19 and 23-25 July 2024

Site visit made on 22 July 2024

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2024

Appeal Ref: APP/B5480/W/24/3339526

Former Long-Term Condition Centre, Harold Wood Hospital, RM3 0AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Bellway Homes Ltd (Thames Gateway) against the decision of London Borough of Havering Council.
 - The application Ref P1279.23, dated 17 August 2023, was refused by notice dated 15 December 2023.
 - The development is for the demolition of existing structures and comprehensive redevelopment of the site to provide 96 new residential dwellings (Use Class C3) comprising of self-contained flats and houses in buildings between 2.5 and 5-storeys in height along with associated car parking, cycle parking, access arrangements, public realm, landscaping, services, and other associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing structures and comprehensive redevelopment of the site to provide 96 new residential dwellings (Use Class C3) comprising of self-contained flats and houses in buildings between 2.5 and 5-storeys in height along with associated car parking, cycle parking, access arrangements, public realm, landscaping, services, and other associated infrastructure at the Former Long-Term Condition Centre, Harold Wood Hospital, RM3 0AR in accordance with the terms of the application, reference, Ref P1279.23, dated 17 August 2023, subject to the 'Schedule of Conditions' set out at the end of this decision.

Application for Costs

2. Applications for the award of costs were made by Bellway Homes Ltd (Thames Gateway) against the decision of London Borough of Havering Council (LBHC) and vice versa. Those applications will be the subject of separate decisions.

Procedural Matters

3. Two separate agreed Statements of Ground (SoCG), one main and the other relating to biodiversity, were received shortly before the opening of the Inquiry narrowing the issues in dispute relative to the Decision Notice (DN) contested. Based on that information, tree, ecology, and carbon assessment matters were no longer considered substantive reasons by LBHC to oppose the appeal scheme. My reasoning reflects those circumstances.
4. During the Inquiry it transpired that aspects of the remaining individual reasons for refusal contended in the DN focusing on living conditions and

pedestrian connectivity as well as active travel shared some significant overlap. To avoid the unnecessary duplication of points I have condensed matters accordingly in my findings.

5. The appellant submitted a series of amended plans during the appeal period above the plans originally considered by LBHC when making its decision, which include the provision of a footpath on the main access, various landscaping enhancements, and individual unit elevation detail revisions. LBHC did not raise prejudicial grounds for the revisions not to be accepted as appeal plans at the Inquiry itself. As the changes have been subject to additional agreed public consultation, I am satisfied consideration of the information would not disadvantage interested members of public.
6. Without prejudice to the outcome of the appeal it was agreed during proceedings that the appellant would be given until 8 August to produce a completed Unilateral Undertaking (UU), related to its overall case. A completed UU was subsequently received slightly beyond that time, dated 12 August. But it is legally binding, and therefore informs my decision.

Main Issues

7. The main issues are the acceptability of: (1) resultant living conditions for any future residents having regard to: outlook; aspect; light; and layout including access, amenity and play space provision (2) the adequacy of pedestrian and cycle link connections including regard to encourage active travel; and (3) the overall housing mix with respect to market and affordable housing.

Reasons

Resultant living conditions

8. During my site visit I could see the appeal land contained the redundant former Long Term Condition Centre building, flanked by existing housing areas, an operational polyclinic and associated car park. The land otherwise being separated by fencing, trees, and established vegetation along various parts of the shared boundaries. Some parts of the treed boundary closest to Goldcrest Way feature sharp rising level changes. The immediate street scene leading to the appeal site features high quality engineered surfaces and landscaping use as a further noticeable characteristic of the locality.
9. LBHC's overall concerns toward outlook, aspect, and light predominantly relate to units 1, 2, 8 and 9 within Block A and units 40, 41, 47, and 48 within Block B. Yet, the appellant's architectural evidence makes a strong case that the scheme has been designed to maximise optimal outlook and aspect for new occupiers. Dual aspect provision is primarily achieved through using a deliberate L-shaped building orientated away from the treed embankment it is close to. Some 71% of the total units would be dual aspect.
10. Bearing in mind national guidance, Paragraph 129 c) of the National Planning Policy Framework (the Framework) indicates that decision makers should take 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. Whilst it may be suitable to achieve a greater dual aspect amount elsewhere, I have also allowed some flexibility on this issue because of the specific overall

- site constraints highlighted by the design response to the operational NHS polyclinic immediately adjacent and given the passive surveillance levels also achieved by the appellant.
12. LBHC maintain the position that the blocks should be re-designed to achieve a better overall outlook. However, their suggested revisions to the site plan information tabled do not convince me a worthwhile benefit would be achieved from a marginally greater block set back from the existing treed embankment.
 13. Of particular relevance to the dispute are the methodologies prescribed in the Building Research Establishment (BRE) Site Layout Planning for Daylight and Sunlight: A Good Practice Guide 2022 (BRE Guidelines) in respect of daylight and sunlight to new buildings, the effect of trees on internal daylight levels and the assessment of sunlight availability to outdoor spaces.
 14. I acknowledge the guidelines provide target illuminance levels that should be achieved across at least half of the reference plane for half of the daylight hours within a year. The targets set out within the guidance being 100 lux for bedrooms; 150 lux for living rooms; and 200 lux for kitchens. The main parties broadly agree that a minimum 100 lux level should be achieved for bedrooms, and that daylight is less important for those. However, they disagree whether 150 or 200 lux should apply to living, kitchen, and dining rooms.
 15. Whilst I accept that the higher lux target would generally apply for internal spaces with a shared use, there is due scope for discretion in the BRE guidance to avoid the creation of small separate individual rooms. Thus, I accept a 150 lux level would be appropriate for living, kitchen, dining combined spaces when allowing for discretion to prevent undesirable smaller, segregated areas. The Council also suggest a room by room assessment methodology is more appropriate. But I can see no convincing policy or technical basis for the application of a different methodology to the appellant's detailed assessments.
 16. I recognise that the design revisions undertaken include increasing window sizes in Block B and the number of dual-aspect units in both Blocks A and B to optimise internal amenity. Without factoring embankment trees the appellant's illuminance study shows that 97% of the habitable rooms assessed would satisfy BRE guidelines for internal daylighting (compared to the 93% adherence level without the changes). Furthermore 91 of the 96 units within the scheme would meet or exceed the BRE target level for internal sunlight exposure compliance without factoring embankment trees.
 17. Although Block A unit's 6, 14, 22, and 30 would receive less sunlight this is because of their northerly facing orientation rather than the position of the embankment and would continue to receive daylight illuminance in excess of the BRE criteria.
 18. Factoring the embankment trees some 90% of all rooms of the scheme units reach the compliance level for internal daylight. All but 4 of the rooms falling below the target serve as bedrooms, where daylight exposure is less important.
 19. That said, 6 units would fall below the BRE sunlight recommended target when including the impact of the embankment trees. Whilst this attracts some negative weight, I recognise that the appellant's assessment is worst-case and conservative. Natural daylight levels achieved scheme wide would mostly be

excellent. Consequently, the effect on overall living conditions would be minor and not unacceptable.

20. I have also been referred to the London Road appeal decision¹ but I do not find any contradiction with the broad principles of decision making triggered in it as the appellant refers me to more recent guidelines in this appeal case. It also involves a different site and circumstances, which do not lead me to alter my findings.
21. Separate to those points, I agree the buildings proposed within the scheme offer a high degree of visual interest achieved through comprehensive architectural detailing. With a build density reflective of the wider locality. Moreover, the positioning of terraced housing within the layout featuring garden walls have design response parallels to existing attractive dwellings in the area. Subject to appropriate facing material use the walling would not be visually detrimental. Instead, I find it would constitute a positive design feature reflective of local character.
22. The scheme road layout does incorporate a chicane rather than a purely linear stretch of highway to which the buildings of the development address. I appreciate in some circumstances a linear format may be more optimal for achieving desirable sight lines on aesthetic grounds. But such provision would not lead to a meaningful aesthetic improvement in this case.
23. That is mainly because the appellant's layout ensures the site entrance is specifically designed to be not dominated visually by car parking leaving ample room for building façade interest and positioning, pedestrian circulation, as well as soft and hard landscaping. Plus, there would be no significant enhancement of the legibility of the appeal site as a specific destination point from Copse Avenue by insisting on such fundamental layout changes.
24. The appellant also underscores that creative ways of achieving suitable entrance designs can be undertaken through changes to surfacing or its direction, of which examples can be found across nearby housing areas. The appeal scheme design principles would be consistent with this through condition use.
25. Bringing those points together, the entrance would be well defined and enhanced by the new buildings addressing it. The orientation of the new buildings would be appropriate as they would actively address the street scene.
26. Equally, I am satisfied that the appellant has used the established greenery of the embankment as a credible design opportunity to exploit, allowing occupiers of the units to overlook natural landscaping (which would be subject to considerable improvement via planning conditions) rather than solely built form or engineered surfacing.
27. I have had added regard to the quality of the overall amenity and play space provision expected. Whilst the appeal site is constrained by other existing surrounding built form, I do not find that the layout of the schemes public realm is unduly fragmented. That is because occupiers of the scheme would be the dominant users of it unlike in the case of the green spaces evident in the wider area further afield.

¹ APP/B5480/W/23/3322033

28. The appellant's shading of communal garden spaces testing confirms full compliance with the BRE's 2-hour sun on-ground assessment. This equates to approximately 90% of the communal amenity space meeting the target level compared with the guideline target of 50%. Thus, I have no basis to disagree the outdoor space would not be appropriately sunlit throughout the year.
29. For private gardens, all but one of the residential gardens proposed would also comply with BRE guidelines for sunlight. This is the garden serving unit 90. But the shortfall represents only a minor deviation of one week during March time and the space could otherwise be enjoyed throughout the full year.
30. I also appreciate that some of the windows serving units within 'Block A' as well as some balconies on the northern elevation overlook the proposed play area, achieving reasonable overall passive surveillance levels.
31. The overall pedestrian pathways between buildings and spaces within the application site layout would be safe, uncluttered, and accessible for residents of the scheme. A fundamental part of that is achieved by the extended footway along Copse Avenue from the site to tie in with the existing footway opposite Rose Garden Close and through planning condition use. The wording of the UU and the agreed planning condition list combined give me further assurances residents with disabilities would have suitable parking and access.
32. Thus, whilst the scheme does exhibit some technical shortfalls, they are minor in nature and do not lead me to the conclusion light, aspect, outlook, or layout including access considerations or amenity and play space provision would be unacceptable to resultant living conditions overall. Accordingly, I find that the development would comply with Policies 3, 7, 23 and 27 of the Havering Local Plan 2016-2031 (HLP); and Policy D8 of the 'London Plan, the Spatial Development Strategy for Greater London March 2021' (London Plan), which all combined seek to secure to ensure development is: high design quality; maximises daylight and sunlight; is inclusive, attractive, safe and accessible for new residents; and that public realm design is acceptable in terms of quality and function. It would also comply with paragraph 135 of the National Planning Policy Framework (the Framework) which seeks to create places that are safe, inclusive, accessible, promote health and wellbeing interests and a high standard of amenity.

Pedestrian and cycle links/active travel

33. In the main LBHC contend that the scheme should allow greater connectivity and a less hostile road environment to achieve an acceptable resultant standard of living as well as achieving active travel goals. Largely through the installation of additional pedestrian links to the existing road network beyond the appeal site. But also having regard to the relationship of the site entrance to the local road network. I realise some of these issues have significance to the first main issue argued by the Council, which I have accounted for.
34. At a national level, Section 9 of the National Planning Policy Framework (the Framework) 'promoting sustainable transport' highlights amongst other things that patterns of movement, street parking, and other transport considerations are integral to the design of schemes. It also encourages that the planning system seeks to actively manage patterns of growth in locations that are sustainable or can be made sustainable offering a genuine choice of transport modes. The advantages of doing so include reducing congestion and emissions.

35. Paragraph 108 of the Framework specifically informs me that transport issues should be considered at the earliest stages of development proposals so that amongst other things opportunities to promote walking, cycling and public transport use are identified and pursued. Paragraph 115 then goes on to state that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
36. I note that the layout did not originally incorporate a new continuous pedestrian footpath with full road carriageway surfacing detail along Copse Avenue as part of the application site. The Copse Avenue carriageway would be shared by both cyclists and motorists. Although an independent cycle lane would be preferable, I appreciate there is not enough carriageway space available to successfully deliver that.
37. Nonetheless, St Clements Avenue close to the site entrance is subject to a 20mph speed limit, and features speed humps as well as pedestrian shared surfaces, before joining Gubbins Lane, which is subject to a higher 30mph limit. There is a dedicated cycle link from St Clements Avenue for residents.
38. It is also evidenced that Colchester Road accessed from Gubbins Lane forms part of the local cycle route connecting to Romford and a wider National Cycle Route facilitates passage between Upminster, Romford and Rainham. Harold Wood, Hornchurch, and Romford can be reached within 8 kilometres or so with cycling distances in mind.
39. As part of LBHC's overall arguments historic site allocation masterplan information first formulated in 2008 was referenced during the Inquiry. With respect to that, two out of four of the green links which were envisaged by the masterplan have not been delivered.
40. Of the additional pedestrian links considered, the appellant suggests they have decided not to propose a pedestrian or cycle link between the site and Nightingale Crescent because it would require the uptake of private existing residents land beyond its control. It would also present car parking and turning difficulties in that road.
41. Likewise, the appellant's decision not to connect the site to Juniper Way involves reasons that existing residents were not supportive of the proposals, some of which who also spoke at the Inquiry, because of fear of crime or antisocial behaviour issues potentially occurring from the link. Plus, whilst a stepped connection could be delivered using the appellant's land a disabled access ramp required by the Highway Authority would require additional third party land in a similar vein to the Nightingale Crescent connection.
42. Despite that situation, on both accounts I agree that the additional pedestrian link connections are not necessary to make the scheme acceptable with respect to active travel promotion or day to day residential living condition needs.
43. That is chiefly because the layout of the scheme incorporates a well-placed pathway directly to Goldcrest Way at a sensible gradient in tandem with the continuous new pedestrian footpath and road surfacing along Copse Avenue to be provided. And because the overall quality and legibility of the existing road network environment accessed from Copse Avenue beyond the site for pedestrians and cyclists is already well placed to fulfil residential requirements.

44. Moreover, irrespective of my findings there would be nothing to prevent a pedestrian Juniper Way link from being considered at any time in the future should residents desire one, through appropriate agreement, particularly if the remainder of the NHS site was to be developed.
45. I have had regard to the wider sustainability arguments made in relation to Transport for London (TfL) guidance and best practice. But future residents would still have reasonable access and opportunity to use local public transport options. Harold Wood station is a short walking distance away, allowing access to the full complement of shops and services offered by Romford Town Centre and other centres. Additionally, there are bus stops on St Clements Avenue giving other non-car transport mode options above cycling.
46. There are also bus stops located on Gubbins Lane, in the order of 700 metres away via Copse Avenue. Whilst marginally beyond the TfL typical walking distance this would equate to around an additional 2 minute walk. Consequently, such viable travel options for residents from the proposed development still carry significant positive weight.
47. In gauging the suitability of the main entrance approach and connectivity I disagree the access into the site would represent a 'hostile' environment to pedestrians or cyclists, or that a shared road surface would be unacceptable. The analysis evidenced through the Appellant's Transport Assessment demonstrates an acceptable relationship. Similarly, the Highway Authority have not objected on any safety grounds.
48. Coupled with the ramped Goldcrest Way pedestrian link, the site entrance and cycle storage provision embedded within the scheme design would reasonably encourage active travel through walking and cycling. Moreover, new bus shelter provision and other associated provisions achieved through the UU would further favourably complement this arrangement, as would Travel Plan mechanisms.
49. Aside from that provision, I also give substantial weight to the fact that the site is already identified as a sustainable location for new housing by the adopted development plan for the area. Strikingly, the travel distances to local shops, schools and services are comparable to other parts of the wider site allocation endorsed by LBHC.
50. None of the reasoning they present concerning layout connectivity gives rise to convincing justification which alters my findings on the first main issue. To the contrary, all the evidence points to the overarching conclusion that the development has been designed to be as safe and accessible as is realistically achievable for the site, alongside supporting active travel interests.
51. Thus, I find that the development would provide acceptable pedestrian and cycle link connections for future occupant's not detrimental to living conditions, as well as encouraging active travel. It would accord with HLP Policies 7 and 26 criterion's (v), (viii), and (xi) which collectively seek to: provide safe and active streets; ensure integration with neighbouring development, existing path circulation networks, and patterns of activity to accommodate active travel; and provide inclusive access provision. It would be compliant with London Plan Policies T1, T2 and T5 which combined seek to: improve connectivity and accessibility; encourage trips to be made on foot, by cycling or using public transport; improve health and reduce health inequalities; and improve cycle

options. The fundamental principles of the scheme would also be consistent with Section 9 of the Framework which seeks to manage growth and transportation needs in a sustainable manner, subject to legal agreement use.

Housing mix

52. The main SoCG identifies that LBHC cannot demonstrate a 5 year housing land supply. The appeal site is already allocated for housing development in the Site Specific Allocations Development Plan Document (2008) under Policy SSA1 (Harold Wood Hospital). Aside from that overarching position the main parties broadly agreed during the Inquiry that 22% London Affordable Rent (LAR) units would be the maximum number of affordable units that can be viably delivered on the appeal site.
53. In that context there is disagreement in relation to the suitability of the overall unit mix and tenure of the units the scheme comprises of. Essentially, LBHC seek a greater proportion of larger family units as a fundamental scheme change.
54. In gauging that objection, HLP Policy 5 articulates that the Council will support development proposals that provide a mix of dwelling types, sizes, and tenures. In doing so it states all housing schemes should include a proportion of family sized homes and reflect the recommended mix identified in 'Table 5' unless it can be robustly demonstrated that a variation to the mix in the Table is justified having regard to circumstances including location, site constraints, viability, and the achievement of balanced communities. I have had regard to the percentage mix stated within Table 5 for market and affordable housing for 1,2,3 and 4 bedroom units.
55. The appellant's housing and viability evidence as a whole makes the substantive proposition that the provision of a greater number of family dwellings, through substitution of smaller units would be unviable. Subsequently, that proposition is connected to their broader case argument that should fewer smaller units be provided, it would only serve to decrease the number of affordable units which could be realistically delivered by the scheme.
56. By way of UU the appellant guarantees a minimum 22 units would be affordable housing. The appeal scheme would enable the redevelopment of a disused previously developed site to a more efficient use of land in an urban location already recognised by the development plan as being sustainable. I accept that the likely reduction in affordable housing delivery posed would be a credible outcome if other hypothetical scheme alternatives were pursued.
57. The appeal scheme would provide a mix of housing types, sizes, and tenures ranging from one bedroom to four bedroom units. Whilst the Council do prefer a composition of larger family units, the basis for that is not a convincing proposition relative to adopted policy.
58. Indeed, there is no compelling argument that the appellant's scheme is not consistent with the full wording of Policy 5 when paying regard to viability interests and site constraints. Furthermore, there is no strong basis to conclude there is a greater need for family units than smaller units based on the evidence submitted by the Council's expert witness.
59. I appreciate that London Plan Policy D3 relates to density. It requires a design led approach to optimise development and there is some intersection of density

matters in the Council's overall objections to the scheme layout. Even so, the appeal development is compliant with its terms, and there is inadequate justification to set aside the appellant's accepted viability arguments on density grounds.

60. Conversely, the viability reasoning the appellant provides clearly demonstrates why the overall rationale for the quantum of dwellings, their size, tenure and affordable versus private housing splits has been committed to. The LAR tenure units would be available to people on the affordable housing waiting list, where there is a clear and pressing need for critical housing delivery evidenced.
61. All in all, I find that the development would deliver an appropriate mix of dwellings in terms of their size, tenure, and type compliant with HLP Policy 5 which seeks appropriate mixes for the locality, relative to constraints and viability interests. Based on the evidence there is no obligation to provide a greater number of larger, family units within the mix put forward. I agree that should that be imposed by my decision it would reduce the overall number of units that could be realistically provided as well as resulting in an unviable scheme.

Other planning considerations

62. I acknowledge Paragraph 8 of the Framework emphasises the social objective of sustainable development to support strong, vibrant, and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. Moreover, Paragraph 60 confirms the Government's objective of significantly boosting the supply of homes.
63. The scheme would redevelop redundant previously developed land which has attracted antisocial behaviour problems, to deliver crucial private and affordable housing for the conurbation. I give substantial weight to such benefits in line with the social and economic objectives of the Framework. The principle of reusing such land is inherently sustainable.
64. Separate to those points, there is likely to be some adverse noise and disruption amenity impacts arising from construction activity and construction traffic. But those periods would be temporary and short lived. Planning condition use would ensure this would be appropriately managed and otherwise acceptable in public safety terms. Therefore, I attribute such harm only limited weight.

Other Matters

65. I have carefully considered other public objections relating to: the development being out of character with its surroundings inclusive of its overall height; traffic increases and the creation of likely traffic flow disruption and parking problems; lack of local infrastructure including doctor's surgeries; and detriment to existing neighbouring outlook. But there is nothing compelling to suggest any of those concerns should significantly weigh against the scheme bearing in mind the content of the officer committee recommendation made, consultee advice, and LBHC's subsequent determination as well as all potential forms of legal agreement and planning condition use applicable.

Planning obligation (UU)

66. The covenants applicable are contained within 3 Schedules, which have been agreed between the main parties. I note the UU includes an appropriate clause whereby any individual covenant it contains would cease to be operable if it was found to be non-compliant with relevant legislation. This includes Regulation 122 of the Community Infrastructure Levy (CIL) Regulations.
67. Schedule 1 defines the appeal site by way of site location plan as well as an affordable housing plan, linking the site and subsequent unit provision to the obligations entered into. The location plan and affordable housing spread is consistent with the application plans and documents informing the appeal.
68. Schedule 2 includes notices of implementation of the development which must be served 5 working days beforehand as well as the notice of payment of contributions and fees defined in the UU. This is required to allow LBHC to duly manage future construction activity alongside the financial commitments entered into by the landowner.
69. Schedule 3, Part 1 includes commitments for affordable housing. 'London Affordable Rented Housing' units would be provided and occupied by persons eligible. No more than 65% of the open market homes would be able to be occupied subject to: the affordable housing provision being completed and either transferred to an affordable housing provider or suitable leasehold arrangement thereafter retained; and reasonable endeavours that 10% of the affordable units are wheelchair accessible, as further stipulations.
70. Schedule 3, Part 2 sets out a precise affordable housing mix comprising of 22 residential units overall (7, 1 bedroom, 7, 2 bedroom, 4, 2 bedroom, and 4, 3 bedroom). The remaining 74 units being open market. Schedule 3, Part 4 sets out a mechanism for affordable housing viability review including early and late review triggers; assessment of viability information and any other information deemed appropriate; the delivery of additional affordable housing should it be required informed by the subsequent viability review through defined surplus formulas which would be tested.
71. Affordable housing delivery is supported by HLP Policy 4 of and Policies H4, H5 and H6 of the London Plan. In addition, those policies combined necessitate a review to be undertaken where viability improves over time altering the maximum affordable housing contributions which can be secured. Such overall provision and due flexibility for formal viability review mechanisms accord with the development plan taken as a whole and the advice of the Framework.
72. Schedule 3, Part 3 sets out other commitments linked to: carbon offsetting; transport; education; training; travel planning; and biodiversity offsetting. A sum of £38,245 for carbon offsetting is required by HLP Policy 36 and Policy SI 2 of the London Plan inclusive of Footnote 155 for how the figure is arrived at.
73. A sum of £60,000 for the upgrade of three bus stops to include shelters, stop signs as well as accessible kerb and pavement installation is expected to be provided. I note that bus shelters on Clements Avenue were a recommendation of the Active Travel Zone assessment that was completed to ensure active travel. Active travel being a requirement of London Plan Policy T2.
74. Furthermore, an education contribution of £250,361 alongside the basis for the figure, is specified to ensure adequate numbers of secondary school places are available, bearing in mind existing pupil spaces are indicated as at the limit.

75. Where local training roles cannot be filled through the construction of the development itself, a contribution of £3,526 for every apprentice not recruited would be procured. The total sum would then be directed to the 'Havering Works' grant funded service providing skills training to unemployed Borough residents. I note that the need to provide employment and skills development opportunities is consistent with HLP Policy 22 and London Plan Policy E11.
76. The obligation prohibits future residents from obtaining parking permits in line with HLP Policy 24, whilst at the same time allowing due disability parking permit provision. Connected to that issue the UU includes Travel Plan and associated performance bond requirements related to HLP Policy 23 and London Plan Policy T4 encouraging sustainable travel.
77. Although planning condition use could secure a Travel Plan in its own right, I am conscious that a bond mechanism for performance delivery is an established local practice, when factoring TfL active travel policy. I emphasise that the payments associated with the default mechanisms are not punitive nor financial penalties, but instead are a means of addressing any shortcomings and ultimately ensuring the Travel Plan's success. Subsequently in that context, I agree such an approach is necessary for successful future enforcement as a supplemental provision.
78. Additionally, the UU includes a biodiversity offsetting scheme to ensure any net loss in biodiversity units on the appeal site are compensated for, off-site. This is supported by 180(d) of the Framework which encourages new development to minimise impacts on, and provide net gains for, biodiversity.
79. The scheme would be verified through a certificate or proof of purchase of the required number of Biodiversity Units to provide a Biodiversity Net Gain (BNG) from an identified 'Biodiversity Gain Site' that is regulated by either a Local Planning Authority or a Responsible Body, together with the Biodiversity Habitat Management and Monitoring Plan for the site, and the contractual terms securing a Biodiversity Habitat Management and Monitoring Plan.
80. Should the cost of the required Biodiversity Units from a habitat bank in the Council's area not exceed the cost of equivalent Biodiversity Units purchased from within the National Character Area for the Development, then the landowner would need to demonstrate reasonable endeavours to purchase the required Biodiversity Units from a habitat bank in the locality. Although nascent administrative processes were referred to, I am satisfied such a clause is permissible insofar as it being directly related to the development.
81. I am aware that National Planning Practice Guidance (NPPG) Paragraph 36 recognises that authorities can charge a monitoring fee through planning obligations, to cover the cost of monitoring and reporting on delivery, for the lifetime of the obligation.
82. In this case, the monitoring fees have been calculated based on the anticipated cost associated to different types of obligation requirements equating to a fixed 5% fee for financial obligations and £1,000 for each non-financial obligation. With a cap of £40,000 set as the maximum that would ever be charged by LBHC. Because of that context and variation, I find the overall monitoring fee provision would be proportionate and would allow LBHC to actively enforce the obligation in future periods.

83. Overall, I find that the series of obligations defined in Schedules 1, 2, and 3 are all justified and meet the provisions of Regulation 122 of the CIL Regulations. All the Schedule provisions within the UU are necessary; directly related to the development; and fairly related in scale or kind. They all also accord with the terms of the Framework and NPPG, combined.

Conditions

84. Without prejudice, the main parties compiled an agreed list of planning conditions in the event the appeal is allowed. Subject to various minor amendments the suggested wording would meet relevant legal tests.
85. Standard conditions would be needed to specify the time limit and plans in line with statutory provision and to provide a formal mechanism for amendment.
86. Materials and boundary treatment use detail approval would be necessary to ensure high quality development is delivered. Soft and hard landscaping as well as monitoring conditions would be required to ensure visual integration of the scheme including that the new Copse Avenue Road surface and parking areas are attractive and have an affinity with the wider housing area road surfaces leading to the site. This is particularly important given those areas have been designed with good quality surface treatments.
87. A suite of planning conditions linked to construction method management, hours of operation, and air quality mitigation implementation would be required including matters linked to mobile machinery operation, dust monitoring and transport emissions. Vehicle cleaning facilities would be needed during construction phases to ensure dust and debris does not cause detriment to the appearance of the wider locality.
88. The approval of all external lighting would be necessary to ensure no harm to biodiversity and to ensure satisfactory resultant living conditions to all residents. Conditions to secure: appropriate noise levels; a travel plan framework to work in conjunction with the UU; parking, cycle parking and storage; community safety provision; bin storage and collection details; fire emergency and access provision would all be necessary to ensure the safety and function of the locality is not compromised alongside wider active travel interests.
89. The approval of phasing; levels; public open space; drainage and surface water provision; telecommunications equipment are also required to ensure functional site expectations are fulfilled without detriment to the surroundings.
90. Conditions related to securing ecological protection; BNG; biodiversity enhancement; tree protection; and the overall energy and sustainability credentials of the development inclusive of solar panel installation are appropriate and encouraged by local and national policy.
91. I agree that the removal of permitted development rights for extensions and enlargements as well as for boundary treatments is appropriate and necessary in this case, to ensure future living conditions and the visual attractiveness of the area are not compromised. Additionally, an archaeological condition would ensure historic asset interests are properly safeguarded.

Planning Balance and Conclusion

92. Pursuant to Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, local planning authorities and other decision makers should first have regard to the development plan and then to any other material considerations.
93. If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
94. I have found that the appellant demonstrates full compliance with the adopted development plan for the area, taken as a whole bearing in mind all contentions made by LBHC.
95. As the development accords with the development plan, subsequently it leads me to apply paragraph 11 (c) of the Framework which means that planning permission for the appeal scheme should be granted without delay.
96. But in any event, the magnitude of the combined benefits attributed to the development in the context of a 5 year housing land supply shortfall is considerable relative to the limited short lived construction phase noise and disruption harm I have identified, or even if a notional marginal departure from adopted policy for market or affordable housing tenure and size typology, had been found to be the case. For the avoidance of any doubt, I have not found such departure exists in the LAR or market home provision made based on the submitted evidence, relative to adopted policy.
97. The direct benefits arising from the development relative to all considerations give me sufficient reasons to allow the appeal. There are no other considerations of sufficient weight counting against it to conclude otherwise.
98. For the reasons set out above the appeal succeeds.

M Shrigley

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Horatio Waller

Counsel

WHO CALLED:

Sophie El Nimr

Design/Daylight/Sunlight/Transport Witness

Raphael Adenegan

Planning Witness

FOR THE APPELLANT:

Hashi Mohamed

Counsel

WHO CALLED:

Jonathon Lonergan Daylight/Sunlight/Overshadowing Witness

Chris Tapp Design Witness

Andrew Braun Transport Witness

James Brown Viability/affordable housing/housing mix Witness

Ben Thomas Planning Witness

INTERESTED PARTIES (WHO SPOKE AT THE INQUIRY):

Cllr Williamson London Borough of Havering

Mr Beslier Local resident

DOCUMENTS SUBMITTED DURING THE INQUIRY:

- 1) Appellant's Opening
- 2) Council's Opening
- 3) Draft planning obligation agreement/draft list of planning conditions
- 4) CIL compliance statement
- 5) Sunlight/daylight modelling note
- 6) London Road Appeal Decision
- 7) Summary of levels and survey information
- 8) Written closings of the Council
- 9) Written closings of the Appellant
- 10) Council's written costs claim
- 11) Appellant's written costs claim

DOCUMENTS SUBMITTED AFTER THE INQUIRY:

- 1) Council's response to Appellant's costs claim
- 2) Appellant's response to Council's costs claim
- 3) Appellant's agreement to all draft conditions including pre-commencement
- 4) Completed planning obligation

Schedule of Planning Conditions

Time limit for commencement

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved plans, documents, and specifications as well as any other plans, drawings, particulars, and specifications pursuant to any further approval of details as are approved by the Local Planning Authority:-

HW-RMA-ZZ-00-DR-A-0001 Rev. P2; HW-RMA-ZZ-00-DR-A-0002 Rev. P4; HW-RMA-ZZ-00-DR-A-0200 Rev. P3; HW-RMA-ZZ-00-DR-A-0201 Rev. P3; HW-RMA-ZZ-00-DR-A-0202 Rev. P3; HW-RMA-ZZ-00-DR-A-0100 Rev. P11; HW-RMA-ZZ-01-DR-A-0101 Rev. P9; HW-RMA-ZZ-02-DR-A-0102 Rev. P9; HW-RMA-ZZ-03-DR-A-0103 Rev. P9; HW-RMA-ZZ-04-DR-A-0104 Rev. P9; HW-RMA-ZZ-RF-DR-A-0105 Rev. P9; HW-RMA-ZZ-00-DR-A-0250 Rev. P1; HW-RMA-ZZ-00-DR-A-0251 Rev. P0; HW-RMA-ZZ-00-DR-A-0252 Rev. P1; HW-RMA-ZZ-00-DR-A-0253 Rev. P1; 2304140-D006 Rev. B (Level Strategy); 8227/ASP4/LSP Rev. E (Landscape Strategy Plan); WLC947-1300-001 Rev. R1; Tree Pit Detail Location Plan (8227.TPD.6.3 A), prepared by Aspect; Tree Pit Details (8227.TPD.6.0, 8227.TPD.6.1 and 8227.TPD.6.2), prepared by Aspect; and Tree Planting Plans (8227.TPP.5.0 C, 8227.TPP.5.1 C and 8227.TPP.5.2 C), by Aspect; Design and Access Statement, August 2023, by RM_A; Design and Access Statement Addendum December 2023; Air Quality Assessment (2304140-R03A), August 2023, by Ardent; Planning Statement, August 2023, by Savills; Arboricultural Impact Assessment, August 2023, by Simon Jones Associates; Archaeological Desk-Based Assessment, July 2023, by RPS; Social Infrastructure Assessment, August 2023, by Savills; Statement of Community Involvement, by GNL; Daylight and Sunlight Assessment, 11 August 2023, by EB7; Delivery and Servicing Plan, August 2023, by Ardent; Preliminary Ecological Appraisal Report Ecological, August 2023, by Urban Edge Environmental Consulting; Updated Energy Statement dated December 2023, by AES; Energy and Sustainability Response Memo, by AES; GLA Carbon Emissions reporting spreadsheet, by AES; Stage 2 Fire Strategy, July 2023, by Introba; Flood Risk Assessment and Drainage Strategy, August 2023, by Ardent; Surface Water Management and Maintenance Plan, July 2023, by Ardent; Travel Plan, by Ardent; Landscaping Details, by Aspect; Noise and Vibration Assessment, August 2023, by Ardent; Overheating Assessment, August 2023, by AESS; Healthy Street Transport Assessment (2304140-R06A), August 2023, by Ardent; Financial Viability Assessment, by James Brown; Health Impact Assessment, August 2023, by Hodkinson; Urban Greening Factor Calculator, by Aspect; Protected Species Report, October 2023, by Urban Edge Environmental Consulting; Biodiversity Net Gain Assessment, May 2024, by Urban Edge Environmental Consulting; Biodiversity Metric Calculation Tool 30 May 2024, by Urban Edge Environmental Consulting; Summary of Access Routes Technical Note, prepared by Ardent; Daylight Sunlight Addendum Report (May 2024), by EB7; Urban Greening Factor Area Calculation, by Aspect; Urban Greening Factor Calculator Table, by Aspect; Aerial Tree Inspection for Roosting Bats, June 2024, by Urban Edge Environmental Consulting.

3. Notwithstanding the details shown on the approved drawings, the development hereby approved shall not progress beyond 150mm above ground level until samples of the materials (or appropriate specification) to be used in the construction of the external surfaces noted below have been submitted to, provided on site, and agreed in writing by, the Local Planning Authority:-

- a) all facing materials for buildings;
- b) windows/ doors/winter gardens/curtain walling/balconies including privacy screens and balustrades/entrance canopies;
- c) boundary fencing including all pedestrian/ access gates;
- d) ground surfacing;
- e) the proposed bin and cycle storage facilities.

The development shall be carried out in accordance with the approved details and shall be retained thereafter.

4. No development above ground level shall take place until details of all proposed walls, fences and boundary treatment are submitted to, and approved in writing by, the Local Planning Authority. The boundary development shall then be carried out in accordance with the approved details prior to the first occupation of each dwelling and shall be permanently retained and maintained thereafter to the satisfaction of the Local Planning Authority.

5. Notwithstanding the details shown on the approved drawings, the construction of the buildings hereby approved shall not commence until there has been submitted to and approved in writing by the Local Planning Authority detailed bay studies in section and elevation showing typical details at minimum metric scale 1:20 to include eaves, external reveals of the windows and doors on each of the elevations, inset brick spandrel panels, porch, and balcony details. This should indicate materials and dimensions. In the event that the depth of the reveals is not shown to be sufficient, a modification showing deeper reveals shall be submitted for approval in writing. The development shall be completed in accordance with the approved details and shall thereafter be retained.

6. Before the development hereby permitted is first commenced, vehicle cleansing facilities to prevent mud being deposited onto the public highway during construction works shall be provided on site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be retained thereafter and used at relevant entrances to the site throughout the duration of construction works. If mud or other debris originating from the site is deposited in the public highway, all on-site operations shall cease until it has been removed. The submission for approval will provide:-

- A plan showing where vehicles will be parked within the site to be inspected for mud and debris and cleaned if required. The plan should show where construction traffic will access and exit the site from the public highway.

- A description of how the parking area will be surfaced, drained and cleaned to prevent mud, debris and muddy water being tracked onto the public highway.
 - A description of how vehicles will be checked before leaving the site - this applies to the vehicle wheels, the underside of vehicles, mud flaps and wheel arches.
 - A description of how vehicles will be cleaned.
 - A description of how dirty/ muddy water be dealt with after being washing off the vehicles.
 - A description of any contingency plan to be used in the event of a break-down of the wheel washing arrangements.
7. Details of any external lighting of the site shall be submitted to, and approved in writing, by the Local Planning Authority prior development above ground level. This information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained, and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.
8. Prior to the commencement of any works pursuant to this permission the developer shall submit for the written approval of the Local Planning Authority:-
- a) A Phase I (Desktop Study) Report documenting the history of the site, its surrounding area and the likelihood of contaminants, their type and extent incorporating a Site Conceptual Model.
 - b) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the sites ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.
 - c) A Phase III (Remediation Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to all receptors must then be prepared and approved in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and procedure for dealing with previously unidentified any contamination. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 - d) Following completion of measures identified in the approved remediation strategy mentioned in 7(c) above, a "Verification Report" that demonstrates the effectiveness of the remediation carried out, any

requirement for longer-term monitoring of contaminant linkages, maintenance, and arrangements for contingency action, must be produced, and is subject to the approval in writing of the Local Planning Authority.

If, during construction of the development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

9. Following completion of the remediation works as mentioned in Condition 7 above, a 'Verification Report' must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved before the development becomes occupied.
10. The development hereby approved shall be implemented in accordance with the submitted Air Quality assessment, dated August 2023 prepared by Ardent Consulting Engineering.
11. Prior to the commencement of the development hereby approved, the developer or contractor must ensure:-
 - a) They are signed up to the Non Road Mobile Machinery (NRMM) register.
 - b) The development site is entered onto the register alongside all the NRMM equipment details.
 - c) The register is kept up to date for the duration of the construction of development.
 - d) All NRMM used during the construction of the development that is within the scope of the Greater London Authority 'Control of Dust and Emissions during Construction and Demolition' Supplementary Planning Guidance (SPG) dated July 2014, or any subsequent amendment or guidance, shall comply with the emission requirements therein.
 - e) An inventory of all NRMM is kept on-site stating the emission limits for all equipment and is available for inspection at all times during construction.
12. Prior to the commencement of any demolition works on site, a detailed Dust Management Plan, shall be submitted to and agreed in writing by the Local Planning Authority setting out dust and emissions control measures to be employed on site, in accordance with the Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction.
13. Prior to the commencement of the development, the developer shall submit for the written approval of the Local Planning Authority full details of mitigation measures that will be implemented to offset the excess in transport emissions. The use hereby permitted shall not commence until the approved measures have been shown to be implemented to the satisfaction of the Local Planning Authority in writing.

14. No demolition or construction works, or deliveries, into the site shall take place other than between the hours of 08.00 to 18.00 on Monday to Friday and 08.00 to 13.00 hours on Saturdays unless agreed in writing with the local planning authority. No demolition or construction works, or deliveries shall take place on Sundays, Bank or Public Holidays unless otherwise agreed in writing by the Local Planning Authority.
15. No works shall take place in relation to any of the development hereby approved until a Construction Method Statement to control the adverse impact of the development on the amenity of the public and nearby occupiers is submitted to and approved in writing by the Local Planning Authority. The Construction Method statement shall include details of:
- a) The site access point(s) of all vehicles to the site during the construction phase.
 - b) Parking of vehicles of site personnel and visitors.
 - c) Storage of plant and materials.
 - d) Wheel washing facilities.
 - e) Measures to monitor and control the emission of dust and dirt during construction.
 - f) Measures for minimising the impact of noise and, if appropriate, vibration arising from construction activities.
 - g) Predicted noise and, if appropriate, vibration levels for construction using methodologies and at points agreed with the Local Planning Authority.
 - h) A scheme for monitoring noise and, if appropriate, vibration levels using methodologies and at points agreed with the Local Planning Authority.
 - i) Siting and design of temporary buildings if required.
 - j) Scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies.
 - k) Details of disposal of waste arising from the construction programme, including final disposal points.

The burning of waste on the site at any time is specifically prohibited. And the development shall be carried out in accordance with the approved scheme and statement.

16. No plant or machinery (including air source heat pumps) shall be installed unless it meets, or mitigation is employed, to meet the following standard:
- The Rating Level ($L_{ar, Tr}$) of the hereby permitted plant or machinery shall be at least 10dB below the prevailing background noise level ($LA_{90, T}$). The measurement position, assessment and definitions shall be made according to BS4142:2014 + A1:2019 "Methods for rating and assessing industrial and commercial sound."

The equipment shall be maintained thereafter to the satisfaction of the Local Planning Authority, and the use hereby permitted must cease during any period that this condition is not complied with.

For houses. Building(s) shall be constructed to provide minimum sound insulation of 45 DnT,w + Ctr dB (minimum value) against airborne noise to the satisfaction of the Local Planning Authority.

For flats. Building(s) shall be constructed to provide minimum sound insulation of 45 DnT,w + Ctr dB (minimum values) against airborne noise and 62 L'nT,w dB (maximum values) against impact noise to the satisfaction of the Local Planning Authority.

17. No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works. Where appropriate, details of a programme for delivering related positive public benefits.

The programme for post-investigation assessment and subsequent analysis, publication & dissemination, and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

18. Prior to carrying out above ground works of each building or part of a building, details shall be submitted to and approved, in writing, by the Local Planning Authority to demonstrate that such building or such part of a building can achieve full 'Secured by Design' accreditation. The development shall only be carried out in accordance with the approved details. And prior to the first occupation of each building or part of a building or use, a 'Secured by Design' accreditation shall be obtained for such building or part of such building or use.
19. Prior to the first occupation of the development hereby permitted, details of storage of refuse and recycling awaiting collection arrangements shall first be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be fully implemented and retained for the life of the development unless written consent is given to any variation.
20. Within three months of the commencement of development of hereby approved a scheme detailing the location of fire hydrants shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of any of the buildings within the development, such hydrants as required by the LFEPA for the development shall be provided in accordance

with the LFEPA's requirements prior to the occupation of the relevant unit/s and thereafter maintained continuously to the satisfaction of the Local Planning Authority.

21. Any inlet for a fire main shall, where ever possible, be positioned on the face of the building which it serves and be visible from the appliance. Any access point shared with a pedestrian/cycle route shall be capable of supporting a pump appliance with a minimum carrying capacity of 14 tonnes. No part of a proposed access route shall contain a grassed area.
22. Prior to the commencement of the development full details of the electric vehicle charging points for each to be installed in the development shall be submitted to the Local Planning Authority and approved in writing. These details shall include provision for all approved parking spaces within that phase to be provided with electric vehicle charging facilities The development shall be implemented in full accordance with the approved details prior to first occupation and thereafter be maintained as such.
23. Notwithstanding the plans hereby approved, at least 10 per cent of the dwellings hereby approved shall be constructed to comply with Part M4(3) of the Building Regulations – 'wheelchair user dwellings'. The remainder of the dwellings hereby approved shall be constructed to comply with Part M4(2) of the Building Regulations – 'accessible and adaptable dwellings'.
24. The residential premises hereby approved shall not be occupied until a Parking Management Plan has first been submitted to, and agreed in writing by, the local planning authority. The plan shall: identify all of the electric vehicle charging point spaces that are to be provided as 'active'; detail the allocation of a disabled person's parking space to each wheelchair home within the development; detail the allocation of general parking spaces within the development; detail the management of general vehicle access across the site and detail the provision of cycle parking for visitors to the development. The development shall be carried out in accordance with the plan so agreed and shall be retained as such thereafter.
25. Within one month of each block or phase being occupied, a certificated Post Construction Review, or other verification process agreed with the Local Planning Authority, shall be provided to the Local Planning Authority to demonstrate that the agreed standards set out in the statement dated December 2023 prepared by AES and Energy and Sustainability Response Memo dated 24 May 2024, prepared by AES (or any relevant revised Strategy or Energy Addendum that has been approved by the Local Planning Authority, where appropriate) have been met.
26. Prior to occupation of any unit within a relevant phase, information on the proposed extent location and details of photovoltaic panels (PV), along with detail such provision accords with an overall energy strategy, is to be submitted to and first approved in writing by the Local Planning Authority. The approved PV details shall subsequently be installed prior to first occupation of any unit/ block hereby approved.
27. In the event that the development approved is to be developed in phases and prior to the commencement of a phased development, a Phasing Plan shall be submitted to, and approved by, the Local Planning Authority. The

conditions outlined in this decision notice shall be applied for and approved in accordance with the phasing strategy.

28. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, no extension or enlargement (including additions to roofs) shall be made to the dwellinghouse(s) hereby permitted, or any detached building erected, without the express permission in writing of the Local Planning Authority.
29. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or Orders amending or revoking and re-enacting the same, other than boundary treatment approved in accordance with Condition 4, no gate, fence, wall, or other means of enclosure shall be erected or constructed unless prior written permission has been granted by the Local Planning Authority (pursuant to an application).
30. No development, or works of site preparation or clearance, shall take place until details, including plans and cross sections of the existing and proposed ground levels of the development and the boundaries of the site and the height of the ground floor slab and damp proof course in relation thereto, have been submitted to, and approved in writing by, the Local Planning Authority. The works hereby permitted shall be carried out in accordance with the approved details.
31. Prior to the first occupation of any of the relevant houses and residential blocks hereby permitted, a phased scheme outlining the areas set aside for car parking spaces and surfacing shall be submitted to, and approved in writing by, the Local Planning Authority. The approved parking areas shall be retained permanently thereafter for the accommodation of vehicle parking.
32. Prior to the first occupation of any of the relevant residential blocks hereby permitted, a phased scheme outlining the cycle storage areas shall be provided and laid out and surfaced to the satisfaction of the Local Planning Authority to provide a secure cycle parking stores provided for building residents (long stay). The safe, secure, and accessible areas as marked on the plans shall be retained permanently thereafter for the accommodation of cycle parking spaces associated with the site.
33. Notwithstanding the submitted information, prior to the occupation of the development hereby permitted, a framework travel plan, shall be submitted to, and approved in writing by, the local planning authority. The travel plan shall be implemented in accordance with the approved details from the commencement of the use on site and retained thereafter.
34. Prior to first occupation of the development hereby approved, a scheme of landscaping and boundary treatment for the area or areas identified for use as public open space shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include details of perimeter fencing, gates, and base for maintenance vehicles. The approved scheme shall be implemented in the first available planting season following completion of the development or relevant phase thereof and permanently retained thereafter.
35. The development hereby approved shall not progress beyond damp course level until additional details of a strategy for the provision of communal

facilities for television reception (e.g. aerials, dishes, and other such equipment) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the specific size and location of all equipment. The approved details shall be implemented prior to the first occupation of the building and shall be retained thereafter. No other television reception equipment shall be introduced onto the walls or the roof of the building without the prior written approval of the Local Planning Authority.

36. No development shall commence until full details of the drainage strategy, drainage layout, together with SuDS information to serve the development have been submitted to and agreed in writing by the Local Planning Authority prior to works commencing on development. The scheme agreed shall be implemented strictly in accordance with such agreement unless subsequent amendments have been agreed with the Local Planning Authority.
37. No development shall take place, other than works of demolition, until details of works for the disposal of surface water, including surface water attenuation and storage, has first been submitted to, and approved in writing by, the Local Planning Authority. The submitted details shall include measures to prevent water pollution and details of SuDS and their management and maintenance. The development shall be carried out in accordance with the details so agreed and shall be retained as such thereafter.
38. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Urban Edge Environmental Consulting, August 2023) Protected Species Report (Urban Edge Environmental Consulting, October 2023) and Aerial Tree Inspection for Roosting Bats (Urban Edge Environmental Consulting, June 2024); as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.
39. This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.
40. No development shall take place until a construction environmental management plan (CEMP) for biodiversity is submitted to, and approved in writing, by the local planning authority. The CEMP shall include:-
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.

- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

41. No development shall take place until a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the local planning authority. The Reptile Mitigation Strategy shall include the following:-

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance of the Receptor area(s).
- i) Details for monitoring and remedial measures. Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

42. No development shall commence unless and until a final Biodiversity Net Gain Plan demonstrating a net gain has been submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the Biodiversity Metric as applied in the area in which the site is situated at the relevant time.

The development shall then be implemented in full accordance with the requirements of the approved Biodiversity Net Gain Plan.

43. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the occupation of the development. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed. This shall include the habitats, biodiverse roofs and other features including: bird boxes, bat boxes, hedgehog gaps and habitat piles.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule in line with the final Biodiversity Net Gain Plan (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.
44. The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details for a minimum of 30 years to deliver the required condition of habitats created.
45. Prior to occupation, a "lighting design strategy for biodiversity" in accordance with Guidance Note 08/23 (Institute of Lighting Professionals) shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
- All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.
46. Before the development hereby permitted commences at the site, a finalised scheme for the protection of the existing trees to be retained on the site, in accordance with the requirements of BS 5837 (2012) 'Trees in Relation to

Design, Demolition and Construction', shall be submitted to and approved in writing by the Local Planning Authority. The protection measures as approved shall be undertaken before any work in connection with the development hereby permitted commences at the site; and shall be retained for the entire period of the duration of all work in connection with the development hereby permitted. Within the fence or other means of enclosure surrounding the trees, no activities associated with building operations shall take place unless previously agreed in writing by the Local Planning Authority.

47. A schedule of tree monitoring shall be provided to the Local Planning Authority each year, for the duration of a 5-year period and shall include:

- a) The inspection of the trees, including pictures taken at each monitoring visit;
- b) Where decline is identified, a works specification to outline remedial works as necessary; and:
- c) An arboricultural report on the monitoring of trees and the remedial works undertaken.

The specifications for tree planting set out in details 8227.TPD.6.3 Rev A shall be implemented before occupation of each phase of the residential units.

48. Notwithstanding the indicative details shown on the plans hereby approved, before occupation of the development a scheme of hard and soft landscaping shall first be submitted to and agreed in writing by the Local Planning Authority.

The soft landscaping scheme shall include:-

- A planting plan;
- Written specifications (including cultivation and other operations associated with trees, plants, and grass); and
- Schedules of plants and trees, setting out the species, sizes, numbers/densities, and soil depths.
- A programme setting out how the scheme will be put into practice including measures for protecting plants and trees both during and after development has finished.

All new planting set out in the soft landscaping scheme shall then be carried out in accordance with BS 8545 (2014) 'Trees: from nursery to independence in the landscape' in the first planting and/or seeding season following the first occupation of the residential buildings hereby permitted or the substantial completion of the development, whichever is the sooner and shall comply with the requirements specified in BS 3936 (1992) 'Specification of Nursery Stock Part 1 Trees and Shrubs', and in BS 4428 (1989) 'Recommendations for General Landscape Operations'. None of the new trees, plants or shrubs planted shall be lopped or topped within a period of five years from the completion of the development. Any trees, plants, or shrubs, which, within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased,

shall be replaced in the next planting season, in accordance with the approved scheme. The approved landscaping scheme shall be maintained in that manner thereafter.

The hard landscaping scheme shall include:-

- Finished levels, materials, any signage, furniture/sitting areas, and a maintenance plan to demonstrate how the hard landscaping features will be repaired/replaced (as appropriate) over time.
- All details of any fencing, gates, walls, or other means of enclosure within the development.
- A programme setting out how the plan will be put into practice including measures for protecting plants both during and after development has finished.
- New road surface materials for Copse Avenue and within the application site.

The approved hard landscaping scheme shall be installed prior to first occupation of the residential buildings or the substantial completion of the development, whichever is the sooner, and maintained thereafter in accordance with the approved maintenance plan and all other details.

49.A Schedule of Soft Landscape Monitoring shall be provided to the Local Planning Authority each year, for the duration of a 5-year period and shall include:

- a) A landscape report for the monitoring of soft landscaping proposals once per year throughout the 5-year period;
- b) The inspection of the soft landscaping, including pictures taken during the site visit, and;
- c) Where decline is identified, landscape audit report is to be provided to outline remedial works as necessary, or replacement planting carried out.

End of Schedule



Costs Decision

Inquiry Held on 16-19 and 23-25 July 2024

Site visit made on 22 July 2024

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2024

Costs application in relation to Appeal Ref: APP/B5480/W/24/3339526
Former Long-Term Condition Centre, Harold Wood Hospital, RM3 0AR

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Bellway Homes Ltd (Thames Gateway) for a partial award of costs against the decision of London Borough of Havering Council.
 - The appeal was against the refusal of planning permission for the demolition of existing structures and comprehensive redevelopment of the site to provide 96 new residential dwellings (Use Class C3) comprising self-contained flats and houses in buildings between 2.5 and 5-storeys in height along with associated car parking, cycle parking, access arrangements, public realm, landscaping, services, and other associated infrastructure.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The appellant submits that London Borough of Havering Council (LBHC) has acted unreasonably insofar as: 1) they have not utilised a daylight and sunlight expert to substantiate their reasons for refusal; 2) the sustainability and highways arguments applied are generic and unsubstantiated, and do not make a material difference to the outcome of the case; 3) their approach to the appeal as a whole is disproportionate, including their witness disregarding evidence without due explanation; 4) excessive Counsel questioning of the appellant's witness's evidence; 5) their reasons for not entering into a bilateral s106 agreement are unjustified, wasting time and expense; and 6) the issues relating to Policy H5 where viability evidence is present are unjustified as is the Council's own costs claim. As a result, the appeal has caused unnecessary expense.
3. National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised, or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. The Council must clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.

5. With respect to ground's 1-6 combined. I am satisfied that LBHC drawing on its full complement of professional officer resources were able to duly assess the implications of the appellant's daylight and sunlight evidence, to draw planning judgements and conclusions.
6. I appreciate that individual room splits and numbering in comparison to unit numbering referred to in the evidence as well as the revised plans tabled were administrative complications. The additional tree assessment variable information being a further factor.
7. I also acknowledge there was some misunderstanding of the perceived rigidity of the BRE Guidelines in comparison to the appellant's expert assessment. Additionally, the appellant made several notable improvements through revisions. That said, there were still some technical deficiencies highlighted overall, with or without embankment trees which do not make LBHC's criticisms, subsequent legal questioning, or length of questioning inappropriate.
8. Whilst the technical consultee advice was clear from both the Highway Authority and Transport for London it does not necessarily follow that LBHC should not seek greater accessibility ease to improve living conditions or to maximise active travel promotion connectivity for the locality. That is said bearing in mind all of the adopted design policies triggered which may not be fully accounted for in consultee advice, if taken in isolation.
9. The issues involved are also subject to the views of interested parties living in the area requiring further design response acknowledgement. For those reasons, despite my findings on the main issues of the case, I find that LBHC raised legitimate planning concerns which include a wider and appropriate appreciation of development plan policy than the appellant alleges.
10. Because of all of those combined circumstances referred to above, including the range of revisions produced by the appellant, I do not find LBHC's approach during the Inquiry was unreasonable. Although there is clearly a pressing housing and affordable home delivery shortage in the area, it does not automatically follow that permission should be granted with the sunlight, daylight, layout, aspect, housing type and connectivity and active travel limitations subject to dispute in mind, even when notional flexibility is applied.
11. With respect to the specific 'tilted balance' reference by LBHC's witness and which of the development plan policies were deemed out of date. It was revealed during proceedings that some elements of the proof of evidence were on reflection erroneous. This represented a small element of Inquiry time.
12. I accept there appears to have been some confusion on LBHC's side over the type of affordable housing product the appellant was committed to, referring to the assumption of 'Rent Plus'. Furthermore, the issue of whether 2 bed 4 person termed units is deemed to be for family occupation, or not, indicates to me there is inconsistency in some areas of the case.
13. Yet, beyond the actual stated bedroom numbers, the principle of seeking larger family sized units is not in itself an unusual circumstance, and there is due latitude for such argument to be applied in the context of the overall site layout considerations posed. Moreover, given viability complexity and the physical site constraints combined I find it is appropriate to allow flexibility for both the appellant and LBHC in the treatment of these issues.

14. Of the evidence heard at the Inquiry it was apparent that there was significant overlap with prevailing policy relative to the arguments put. This does bring into the equation London Plan Policy D3, and other contextual policies not explicitly referred to in the Decision Notice.
15. Given the absence of a 5-year housing land supply and functional design issues are embedded throughout the case, to ignore such policies would be unhelpful to facilitating a decision either from the perspective of the appellant or LBHC. Indeed, the officer's report gives parties a fuller list of policies for a decision maker to have regard to, if needed to be appropriately expanded upon. Indeed, it was appropriate to do so.
16. During proceedings, the nature of the legal agreement settled on (without prejudice to the outcome of the appeal), was by Unilateral Undertaking (UU). I recognise there are references to a bilateral agreement being developed in tandem with the UU referred to by the appellant, alongside their reasoning why the former would be more favourable. I agree it is both concerning and unfortunate that some abortive work seems to have occurred.
17. Even so, there is no dispute by LBHC that the UU would be an ineffective legal mechanism. It was in the appellant's gift to have pursued such a route from inception of the scheme, if it was minded to. I am also aware that the BNG provision within the UU itself involves some nascent delivery elements which are not demonstrated to be an established administrative practice by LBHC.
18. There are no doubt elements of LBHC's case which have shortfalls against some of the technical aspects covered including the affordable housing product utilised when formally examined. Nonetheless, there are broader underpinning aspects which the reasons for refusal intersect. Accordingly, this offers me compelling circumstance as to why they found the scheme to be unacceptable. Thus, I disagree the reasons for refusal are not adequately substantiated.
19. I find that overall, LBHC have given satisfactory evidence both orally and in writing to justify their reasoning and accounting for error, when having regard to the full provisions of the development plan, national planning policy and other relevant considerations. Accordingly, their concerns were not baseless.
20. My findings on the opposing costs claim are made under separate cover in direct response to it. The action of applying in itself does not provide me a convincing basis to support the appellant's claims, as there was some scope available to pursue an amended planning application, in light of all revisions made during the appeal period.
21. In conclusion, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, the appellant's costs claim fails.

M Shrigley

INSPECTOR



Costs Decision

Inquiry Held on 16-19 and 23-25 July 2024

Site visit made on 22 July 2024

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2025

Costs application in relation to Appeal Ref: APP/B5480/W/24/3339526
Former Long-Term Condition Centre, Harold Wood Hospital, RM3 0AR

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by London Borough of Havering Council against Bellway Homes Ltd (Thames Gateway) for a partial award of costs.
 - The appeal was against the refusal of planning permission for the demolition of existing structures and comprehensive redevelopment of the site to provide 96 new residential dwellings (Use Class C3) comprising self-contained flats and houses in buildings between 2.5 and 5-storeys in height along with associated car parking, cycle parking, access arrangements, public realm, landscaping, services, and other associated infrastructure.
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Decision

1. The application for an award of costs is refused.

Reasons

2. London Borough of Havering Council (LBHC) submits that the appellant has acted unreasonably insofar as it submitted updated plans 24 May 2024 time alongside a highways technical note during the appeal period it was not expecting to be the case post the Case Management Conference held 8 May 2024. As a result, the appeal has caused unnecessary expense.
3. National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. I agree that the revisions and note produced by the appellant does present some tardiness issues insofar as LBHC were not able to base its initial proofs of evidence on the amendments.
5. The information did trigger a need for LBHC to properly assess the nature of the variations and information in good time, where due professional expertise is required and expected to be relied upon to base any next steps.
6. Nonetheless, adequate and agreed public consultation did occur on the revised drawings and note before the start of the Inquiry where interested party considerations are a further factor to have in mind, aside to commentary from LBHC. Subsequently, the Statement of Common Ground process provided some

avenue to respond to the issues posed. An addendum would have also been possible.

7. Although I accept that the appellant could have more fully explored all elements of the variations anticipated with the Council at an earlier stage, they are matters which ultimately LBHC would have needed to respond to in any event.
8. That is because of the potential planning obligation and condition use mechanisms applicable, which any decision maker would need to assess having regard to all aspects of the case made.
9. But also, because it was for the appellant to meet the reasons for refusal given to it, which featured several cross cutting issues that were not clear-cut in nature. Owing to combined issue and landowner interest complexity, I accept the revisions were undertaken in the spirit to aid an overall decision in line with reasonable practice.
10. Moreover, despite the pre-application chronology advanced, and referred to by both parties, there was still scope for LBHC to have more fully explored some matters leading to appeal during the application process itself, in a positive and proactive manner in combination with due impetus from the appellant.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Thus, an award of costs is not justified in this particular case.

M Shrigley

INSPECTOR