



Appeal Decision

Site Visit made on 12 October 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2021

Appeal Ref: APP/C5690/W/21/3273073

80-82 Rushey Green, London SE6 4HW

- 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 Mr M Parekh of Grantley (Catford) Limited against the decision of the London Borough of Lewisham.
- The application Ref DC/20/118951, dated 26 October 2020, was refused by notice dated 21 January 2021.
- The development proposed is partial demolition of existing warehouse; erection of two storey x 2 blocks of flats comprising 2 x 2 bedroom and 4 x 1 bedroom units, with 12 cycle spaces, disabled parking, and associated works.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellants final comments have included details of a further private terrace area for one of the ground floor flats, along with details of a green roof. Photographs and a drawing of the proposed delivery arrangements have also been provided. This represents new information. The appeals' procedural guide makes it clear that 'the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought'¹.
3. Nevertheless, it is my view, that the additional information does not fundamentally alter the scheme in terms of its design, scale and layout. I have therefore assessed the appeal on the basis of the additional information.
4. Between the determination of the planning application and the appeal coming before me, the new London Plan² and a revised Framework³ were published. The Council has subsequently indicated that Policies D4 and D6 of the new Plan are relevant to this appeal. The views of the appellant have been sought on these and I have had regard to their comments in my findings. Similarly, both main parties have had an opportunity to comment on the revised Framework.

Main Issues

5. The main issues are:
 - The effect of the proposal on the character and appearance of the surrounding area;

¹ Annex M, M.2.1, The Planning Inspectorate Procedural Guide, Planning Appeals – England, August 2019

² The London Plan 2021

³ National Planning Policy Framework (2021)

- The effect of the proposal on the living conditions of residential occupiers, at Wildfell Road and Hamlet Close, with particular reference to outlook and privacy;
- Whether or not future occupiers would be likely to experience acceptable living conditions in terms of private amenity space provision; and
- The effect of the proposal on highway safety, with particular reference to access and servicing arrangements associated with the retail premises at 80-82 Rushey Green.

Reasons

Character and Appearance

6. The appeal site is located to the rear of a high street store, and behind a perimeter block of streets that includes Rushey Green and Wildfell Road. The site encompasses part of a long single storey rear extension and yard area used for the storage and delivery of goods. The adjoining retail premises along this part of Rushey Green also have similar rear additions that are predominantly single or double storey, with flat roofs that have a monolithic appearance. When viewed from surrounding properties and upper floor windows, these extensions, by virtue of their excessive length, form and non-descript appearance do not look particularly attractive.
7. Conversely, the residential development at Hamlet Close, to the immediate south of the appeal site and rear of Nos 84-96 Rushey Green incorporates a small number of two, three and four storey blocks that have a more reduced length. The blocks have a clean and uncomplicated modern design that incorporates large windows and curved facades. The intervening spaces between the blocks are attractively landscaped with shrubs, trees and footpaths, which provide relief to this backland setting, resulting in a less intensive plot coverage. The combination of Hamlet Close's higher quality design and attractive layout has a positive influence at the rear of this part of Rushey Green, that contrasts markedly to the rear additions.
8. The appeal development is in excess of 40m in length while having a slender width and flat roof profile. The projections and the angled, double height, bay windows along the proposal's front elevation give it a jagged and erratic appearance that combined with the proposal's length and flat roof profile results in an unappealing building. Besides, it does not depart with any great intent from the slab-like structural forms of the additions that emanate from the rear of Rushey Green. As a consequence, the proposal would represent an incongruous building that does not incorporate a high-quality design or respond positively to the character of its immediate environment, for example the more considered design aesthetic at Hamlet Close. This harmful visual impact on the locality would be seen from the rear of properties along Wildfell Road and Rushey Green.
9. It is acknowledged that the proposal would remove part of the unsightly flat roof rear storage addition while having a more reduced plot coverage. It would also incorporate a green roof and areas of landscaping along the site's northern half, that would soften the otherwise harsh and intensive rear areas behind the Rushey Green frontage. Yet, those improvements would not resolve the proposed building's appearance which I have found to be unattractive as a result of its slender shape, disjointed frontage and elongated profile, while not responding positively to its context. Moreover, I note that the appellant considers that the proposal's two storey scale reflects the terrace dwellings to the north along Wildfell

Road. However, this terrace has a more consolidated and proportionate appearance, in contrast to the appeal scheme.

10. The attempts to break up the proposal's frontage with contrasting materials are noted. But this does not, in my view, address the monotony and length of the proposed roof profile and my concerns in respect of the front elevation.
11. Accordingly, the proposal would have an unacceptable effect on the character and appearance of the surrounding area and would conflict with Policy 15 of the Core Strategy (June 2011), DM Policies 30, 32 and 33 of the Development Management Local Plan (November 2014) (Local Plan) and Policies D4 and D6 of the London Plan 2021. Together, these require proposals to be of the highest design quality and to relate successfully and be sensitive to the existing design quality of the area. It would also conflict with the Framework where it requires proposals to be visually attractive as a result of good architecture and layout, while adding to the overall quality of the area.

Living Conditions

12. The terrace dwellings that extend from Nos 13-31 (odds) Wildfell Road have shallow rear gardens. The majority of these are enclosed by the north elevation of the existing rear addition at the appeal site. Although the rear wall would be taller than a standard boundary enclosure, it relates to a single storey structure. Accordingly, existing occupiers at Wildfell Road are able to look over the boundary and obtain largely uninterrupted skyward views from their gardens and rear windows.
13. The proposed development would be stepped away from the rear residential boundaries of Wildfell Road. The projecting parts of the proposed structure would according to the Council, maintain a distance of approximately 4m from the rear gardens of the nearest dwellings and some 6-7m from their rear outriggers. Without any details to the contrary, and from what I observed on site, I have no reason to disagree with those measurements. These distances are very modest and occupiers, of particularly Nos 21, 23 and 25 Wildfell Road, would feel unacceptably enclosed by a taller more imposing two storey structure. This would have the effect of significantly reducing the outlook of those neighbours from their gardens and nearest rooms.
14. The double height bay windows on the proposal's north elevation have been angled in an attempt to minimise direct overlooking of the rear garden spaces and habitable rooms of the dwellings along Wildfell Road. I am satisfied that the oblique relationship between the proposed windows and those at the rear of dwellings on Wildfell Road would sufficiently obscure any direct and harmful overlooking. However, the first floor living room windows relating to Flat 2 and 3 would be orientated towards the rear gardens of Nos 19, 21, 23, 25 and 27 Wildfell Road. Given that those windows relate to the projecting part of the building, the distances to the aforementioned gardens would be very short and would result in harmful levels of overlooking into private space. The proximity and presence of those windows would make occupiers feel very uncomfortable and to experience a sense of being watched.
15. It is acknowledged that the properties referred to at Wildfell Road already experience a degree of overlooking, but the proposal's windows would be orientated such that they would allow for more invasive and wide-ranging views into the gardens.
16. Notwithstanding the above, the proposed residential block would maintain a more acceptable separation distance from the dwellings at Hamlet Close to the east. It is

also orientated so that the private gardens and windows relating to those neighbouring properties are not unacceptably overlooked or enclosed by the proposal.

17. Although I have found that the proposal would not unacceptably impinge on the residents of Hamlet Close, it would have a harmful effect on the living conditions of nearby residential occupiers at Wildfell Road, with particular reference to outlook and privacy. Therefore, it would fail to accord with Policy 15 of the Core Strategy and DM Policies 30, 32 and 33 of the Local Plan, which require, in part, that proposals be of a high-quality design that respects local context and ensures satisfactory levels of outlook and privacy for its neighbours.

Private Amenity Space

18. For new-build housing development DM Policy 32 of the Local Plan requires that schemes provide a readily accessible, secure, and private amenity space. The London Plan 2021 is more prescriptive in requiring a minimum of 5m² of private outdoor amenity space for 1-2 person dwellings and an extra 1m² per additional occupant, while achieving a minimum depth of 1.5m. These standards are minimums and the Plan encourages developers to exceed them while they should not rely on communal amenity space as justification for failing to deliver these minimum standards.
19. The proposed ground floor flats each have an external terrace area enclosed by a 1.2m high boundary. These spaces meet the space standards set out above, whilst the low-level screening around the terraces and their recessed position relative to the projecting bay windows, affords those areas a degree of enclosure and privacy that would be acceptable. However, there is no external private space allocated for the three first floor flats. This would deprive occupiers of an external area where qualitative and functional needs could be met, such as outdoor seating, the display of plants or a clothes drying area. It is acknowledged that there are communal amenity spaces to the immediate north of the flats, yet these are more open and exposed and would not afford occupiers any privacy. Therefore, the absence of external private outdoor space for those future occupiers residing on the first floor would result in an unacceptable standard of accommodation.
20. I therefore conclude that the proposal would not provide acceptable living conditions for future occupiers in terms of private amenity space provision. It would fail to accord with Policies 15 of the Core Strategy, DM Policies 32 and 33 of the Local Plan and Policy 3.6 of the London Plan 2021, where they require development to accord with external space standards and be of a high-quality design that incorporates functional and comfortable layouts.

Pedestrian and Vehicular Safety

21. Parking opportunities along Wildfell Road and the adjacent Scrooby Street are largely limited to resident only parking bays. Yellow line restrictions are in place elsewhere to prevent illegal parking.
22. The proposal would displace an area within the site used for the delivery of goods to the retail unit at Nos 80-82 Rushey Green. This is currently accessed off Wildfell Road via Hamlet Close, although I note that the occupiers of the retail unit have encountered problems accessing this area to carry out deliveries due to other vehicles parking and blocking the service yard. This has led to delivery vehicles parking along the restricted area on Wildfell Road close to its junction with Hamlet Close while goods are offloaded.

23. Large articulated vehicles parked at this location will severely reduce the width of the road, and the visibility of vehicles and pedestrians emerging from Hamlet Close onto Wildfell Road. It is not clear on the time or frequency of these deliveries or how long the unloading of goods to the store would take. Without this information, it is not possible to fully gauge the scale of the effect on other road users in terms of visibility and possible congestion, and whether there would be any ensuing unacceptable highway safety impacts.
24. The appellant has indicated a willingness to provide further details on the management of deliveries to the retail store through a planning condition and that an unloading/delivery area could be designated along part of Wildfell Road. However, this section of the road currently prohibits parking, and it is uncertain whether this would be acceptable in principle without the permission of the local highway authority, and whether or not a loading/delivery area here would be acceptable in highway safety terms. Given this degree of doubt the use of a condition would not be reasonable in this case.
25. Therefore, I conclude that there is insufficient information before me to provide certainty that the proposed development would have an unacceptable effect on highway safety along the surrounding roads, with particular reference to access and servicing arrangements associated with the retail premises at 80-82 Rushey Green. It would fail to accord with Policy 14 of the Core Strategy and DM Policy 33 of the Local Plan where they require proposals to consider the safety of drivers and pedestrians. It would also fail to accord with the Framework, which advises that schemes can be refused if they result in unacceptable impacts on highway safety (Paragraph 111).

Other Matters

26. The appellant has suggested that the proposed development would have a positive effect on the area's housing supply, and that it would represent sustainable development close to local services and transport connections. Whilst I do not doubt that there would be beneficial effects, these would not outweigh the proposal's harm to the living conditions of existing and future occupiers, the area's character and appearance, the potential harm to highway safety, and the resultant conflict with the development plan. Moreover, whilst I am sympathetic to the fact that the appeal proposal is a resubmission taking into account issues previously raised by the Council, I can only assess the current proposal on the basis of the information before me.

Conclusion

27. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

RE Jones

INSPECTOR