



Appeal Decision

Site visit made on 13 June 2022

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2022

Appeal Ref: APP/A5270/W/22/3290358

433-439 Uxbridge Road, Southall, London UB1 3ET

- 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 Nasir (Dashwise Ltd) against the decision of the Council of the London Borough of Ealing.
 - The application Ref 212518FUL, dated 12 March 2021, was refused by notice dated 9 July 2021.
 - The development proposed is the demolition of office/ storage and change of use from selling and display of motor vehicles to construction of a block comprising of 7 self contained units with, cycle, bin store and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address above is taken from the appeal form and the Council's Decisions Notice. This is in the interest of accuracy.
3. The Council's reasons for refusal make specific reference to the National Planning Policy Framework (2019) (the Framework). Since the determination of the application, a new Framework has been adopted (July 2021). Given the time elapsed since the adoption of this Framework and it not being relied upon for any refusal reason, no parties would be prejudiced by my general reference to the most up to date Framework. I have proceeded on this basis.

Main Issues

4. Whilst not included in a reason for refusal, the Officer Report sets out that a legal agreement would have been sought to secure the development as car free if the Council were not minded to refuse the application for other reasons.
5. As such, the main issues in this case are:
 - the effect of the development on the character and appearance of the surrounding area;
 - the effect of the proposal on the living conditions of the occupants of neighbouring properties, having particular regard to noise and disturbance, outlook, light and privacy;
 - whether the proposal would provide adequate living conditions for future occupiers, with respect to the quality of internal and outdoor space;

- whether the proposed development would make adequate provision for inclusive and accessible accommodation;
- whether the proposal would provide appropriate facilities for cycle parking; and
- the effect of the development on highway safety, with particular regard to parking.

Reasons

Character and Appearance

6. The appeal site comprises of a roughly triangular parcel of land sited on the corner of Uxbridge Road and Wharncliffe Drive. The site currently is occupied by a car storage business, which includes a single storey office structure serving the business, which is mainly based opposite the site. There is also a large advertisement billboard on the site. There are ground floor commercial units on the opposite side of Wharncliffe Drive, and on the opposite side of Uxbridge Road are large, contemporary multi storey residential buildings and the substantial St Bernard's Hospital and Ealing Hospital.
7. However, both Wharncliffe Drive and this part of Uxbridge Road immediately next to the appeal site are part of a visibly separate small mostly residential estate, bounded on each side by Brent Meadow to the east, large warehousing/commercial buildings to the west and the railway line to the north. This residential area is dominated by two storey, hipped roof semi-detached or terraced dwellings, providing a uniform and, save for the appeal site, homogenous appearance and scale that contributes positively to its character and appearance. Whilst the existing single storey office building and car storage is at odds with the surrounding residential use, its appearance is low key and is limited in its visual impact.
8. The footprint of the proposed development is dictated by the shape of the site, and as such it has an awkward elongated and angled profile. Whilst the second floor is slightly recessed and restricted to the eastern side of the building, it would noticeably sit above the existing two storey surroundings. The substantial width of the building would also be at odds with the surrounding traditional residential properties. Its flat roofed, modern design would be unapologetically separate and distinct from the surrounding residential estate, and it would sit prominently apart and detract from the surrounding character in terms of scale and pattern of development.
9. Moreover, the entrance to the building is located on the elevation facing Wharncliffe Drive. The larger 'side' elevation facing Uxbridge Road would, by virtue of its ad hoc fenestration pattern and mostly small ground floor windows, have a limited engagement with the main road. The lack of any detailing to break up this elevation would emphasise its massing and incongruous scale.
10. For the above reasons, I therefore find that the proposed development would detract from the character and appearance of the surrounding area. It would not therefore accord with Policies 7.4 and 7B of the Ealing Development Management Development Plan Document (2013) (DPD), which, along with Policies 1.1, 1.2 and 2.1 of the Ealing Development Strategy 2026 Development Plan Document (2012) (DS) and Policies D3, D4, D8 of the London Plan (2021) (LP) require high quality architecture and urban design

which is informed by and compliments its surroundings. These policies are consistent with the design policies of the Framework which, amongst other things, requires development be sympathetic to local character and the public realm.

11. The Council reference LP Policy G5, however this relates to urban greening and major developments. As such, it is not relevant in this instance.

Living Conditions of Neighbouring Occupiers

12. Given the corner siting of the proposed development, it would be neighboured by the side elevations of No 431 Uxbridge Road and No 1 Wharncliffe Drive. The northern side of the proposed building, which includes an access to the communal garden and bin/cycle storage area, would be accessed off the existing lane running along the side of No 1 Wharncliffe Drive. The location of this access would lead to some comings and goings next to the side of No 1 Wharncliffe Drive, however, the existing use of the lane for access to a large number of outbuildings also leads to a number of existing comings and goings.
13. In addition, given the nature of the existing car business, there would be some noise and disturbance associated with the moving of cars, discussions with customers, car engines starting, doors shutting etc. Whilst this would only generally occur during business hours, I am satisfied that the residential use of the rear communal garden area and the access described above would not subject the occupiers of No 1 Wharncliffe Drive, No 431 Uxbridge Road nor any other property, to a significantly greater level of noise and disturbance compared to the existing situation. There would therefore be no detriment to their living conditions in this respect, and no conflict with LP Policy D14, which relates specifically to noise impact.
14. The proposed building would be sited, next to the boundary, in line with the rear elevation of No 431 Uxbridge Road. Whilst the building then extends to the north, this is set some distance from the side boundary with this neighbour, and as such, the outlook from the rear facing windows and garden of this property, or any other property along Uxbridge Road, would not substantially alter and given the remaining sense of openness, the development would not lead to a sense of enclosure.
15. Similarly, given this separation distance, I am satisfied that the development would be unlikely to result in a loss of light or sunlight to the garden of No 431 Uxbridge Road to a degree that would harm the living conditions of its occupiers.
16. The proposed development includes a number of northern side elevation windows, including two first and second floor windows. Whilst the window serving the bathrooms can be obscure glazed to prevent direct overlooking of the rear garden of No 1 Wharncliffe Road, I do not consider that it would be appropriate to obscure glaze the windows serving kitchens as this would lead to a lack of natural light in a large portion of Flats 5 and 7. However, given their position, the oblique overlooking from these windows over the garden of No 1 Wharncliffe Drive would not be substantially greater than the existing overlooking experienced from the existing rear fenestration of the attached neighbour, No 3 Wharncliffe Drive.

17. Given the separation distance between the north facing windows of Flat 4 and the garden of No 1 Wharncliffe Road, measured by the Council at 11.4m, the windows would also not lead to unacceptable direct overlooking of the garden of this, or any other neighbour. As such, the windows would not result in a detrimental impact upon the living conditions of No 1 Wharncliffe Drive with respect to privacy.
18. However, the proposed building would extend further to the rear than the rear elevation of No 1 Wharncliffe Road. I am satisfied that, given the position of the proposed building, the primary outlook from the rear facing windows and garden of this property over the rear would not substantially alter from the present outlook over the rear gardens. The additional depth of the proposed building past the rear of this neighbour is limited and the proposed building would be separated from this property by the access lane. However, given the height of the proposed building and its siting directly to the south, this would likely lead to a significant impact upon the light reaching the rear garden of this neighbour to the detriment of the living conditions of occupiers.
19. As such, I conclude that the proposed development would lead to a detrimental impact upon the living conditions of the occupants of No 1 Wharncliffe Drive, having particular regard to light. There would therefore be conflict with the protection of the amenity of surrounding uses requirements of DS Policies 1.1, 1.2 and 2.1, DPD Policies 7A and 7B and LP Policies D3 and D6. These policies are consistent with the aims of the Framework in respect of protecting the amenity of existing users.

Living Conditions of Future Occupiers

20. DPD Policy 3.5 requires development to comply with the minimum space standards set out in the Nationally Described Space Standards (NDSS). I acknowledge that all 7 units meet these space standards, and all units would enjoy a dual aspect. However, Policy 3.5 of the DPD require developments to be of the highest quality internally and externally.
21. The unusual shape of the building would lead to an awkward internal layout on the ground floor. The entrance hallway extends some distance as a corridor to the central staircase area. The two studio units either side of the corridor (Flats 2 and 3) are narrow and elongated in shape. This would result in an awkward and cramped living arrangement, making it difficult to navigate once furniture is introduced. A poor quality of internal accommodation would be provided in relation to these units.
22. DPD Policy 7D sets out that a minimum of 5sqm of private outdoor space should be provided for 1-2 person dwellings and an extra 1sqm should be provided for each additional occupant. Whilst the remainder of the units are provided with some private space either through small garden areas or balconies, Flats 4 and 7 are not provided with any private space. Therefore, neither unit would provide satisfactory living conditions to the future occupiers with respect to private amenity space provision.
23. Moreover, whilst the first-floor balconies offer some privacy due to their height, the garden space for Flat 1 is partly set next to Uxbridge Road. This space would lack privacy. However, this Flat also has garden space allocated at the rear. Suitable boundary treatment could provide this space with adequate privacy.

24. However, the garden spaces for Flats 2 and 3 are set adjacent to Wharncliffe Drive and the entrance to the building. As such, they do not represent private space that could be used for drying clothes for example. This would not meet the 'fit for purpose, genuinely private, screened from roads' requirement of DPD Policy 7D, and again, would not provide satisfactory living conditions to the future occupiers with respect to private amenity space provision.
25. I note that the development would also be served by some communal garden space at its rear, however this would not represent private space for any particular unit, could not be used to store any play equipment or clothes drying. This space would not mitigate nor compensate for the lack of usable private space for the units identified above.
26. I therefore conclude that the proposal would not provide adequate living conditions for the intended future occupiers of the scheme, with particular reference to the provision of internal and outdoor space. In this respect, it would conflict with Policies 3.5, 7B and 7D of the DPD, which along with DS Policies 1.1 and 1.2 and LP Policy D6, collectively require housing development to be high quality and provide a healthy and safe place to live. These policies are consistent with the aims of the Framework in respect of creating places which promote health and well-being, with a high standard of amenity for future users.
27. The Council also references LP Policy SI 8; however, this relates to waste capacity. Issues relating to waste is not included in the Council's refusal reasons, indeed the Officer Report sets out that conditions would overcome any uncertainty in this respect. From everything which has been seen on the site visit and in submissions, I have no reason to disagree. As such, I do not consider this Policy relevant in this instance.

Accessibility

28. The LP reinforces the need for accessible housing within London, in particular Policy D7. The supporting text to this Policy notes that many households in London require accessible or adapted housing to lead dignified and independent lives. The Policy states that to provide suitable housing, residential development must ensure that all (other) dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.
29. This generally involves the requirement that reasonable provision is made for people to gain access to and use the dwelling and its facilities. The provision should be sufficient, amongst other matters, to meet the needs of occupants with differing needs, including some older or disabled people.
30. In accordance with the supporting text of LP Policy D7 (para 3.7.7), given its limited scale, the Council sets out that the development warrants flexibility in the application of accessible housing standards, and as such the accessible and adaptable dwellings requirement should only be required for the ground floor units.
31. The appellant states that the ground floor flats would be accessible for disabled people, and these units are provided with step free access. However, as identified above, the limited width afforded to Flats 2 and 3 would result in an awkward and difficult layout, and I am unconvinced that for older people or

wheelchair users, these units would provide easy manoeuvrability or appropriate accessibility.

32. I conclude that the proposed development would not therefore make adequate provision for inclusive and accessible accommodation. The development would therefore not comply with LP Policies D7 and H2 in its objectives to provide accessible housing.

Cycling

33. LP Policy T5 supports the removal of barriers to cycling and create a healthy environment in which people choose to cycle. The policy sets out that, given the scale of the proposed development, 9 cycle parking spaces are required for future residents, with a further 2 required for visitors.
34. The submitted plans show that 5 cycle parking spaces would be provided to the rear of the building. Given this significant shortfall, I am not clear what impact its provision would have on the adjacent bin storage area or communal garden space. As such a condition to secure the additional spaces would not be appropriate.
35. I conclude that appropriate facilities for cycle parking would not be provided. There is therefore conflict with the healthy environment goals of LP Policy T5 and DS Policy 2.1, which seeks to improve the conditions for cycling in the area.

Highway Safety

36. The area around the appeal site has moderate public transport links. The site is located within a Controlled Parking Zone (CPZ). Given the amount of off-street parking in the area there are limited on-street parking opportunities, and at the time of my visit most of these few spaces were taken. Whilst only a specific moment in time there is no reason to believe that this is not typical.
37. Given the scale of development, the numbers of additional vehicles likely to accrue would be significant in this constrained area. As no off-street parking is included as part of the scheme the Council has indicated that in order to secure the development as car free, any permission should be subject to an obligation that removes permit eligibility for all future occupants, and I note that the appellant has not disagreed.
38. I do not consider this to be a matter capable of being addressed by a planning condition either in respect of securing the development as car free, or through the use of a negatively worded condition. This is because there is no evidence of exceptional circumstances for such an approach as required by the Planning Practice Guidance. I therefore consider a legal agreement appropriate.
39. In the absence of a feasible means of securing the development as car-free, the development would likely place undue stress on the parking environment through the additional demand from the development. This would likely result in inconsiderate parking that would unacceptably increase the risk of conflict between vehicles and pedestrians.
40. I conclude therefore that the development would harm highway safety. This would not accord with the sustainable travel and parking management goals of

LP Policies T4 and T6, which states that parking should be restricted, and development should not increase road danger.

Other Matters

41. The development would result in a small economic benefit during construction and a small, sustained benefit to the local economy once occupied. It would contribute to boosting the supply of housing and make effective use of land in addition to replacing an incongruous land use with a more suitable residential scheme; however, given the limited size of the site and the quantum of development this would attract modest weight in favour of the scheme.
42. Therefore, overall, the benefits of the development attract limited weight in favour of the scheme, which do not outweigh the harm to character and appearance, harm to the living conditions of the occupants of No 1 Wharncliffe Drive in respect to light, the lack of adequate living conditions for the intended future occupiers, the lack of adequate provision for inclusive and accessible accommodation, the lack of cycle provision and the detrimental impact upon highway safety, which are matters that attract significant weight against the scheme.

Conclusion

43. The proposal conflicts with the development plan taken as a whole and there are no material considerations worthy of sufficient weight which indicate that the proposal should be determined other than in accordance therewith. Accordingly, the appeal should be dismissed.

B Phillips

INSPECTOR