



Appeal Decision

Site visit made on 1 August 2023

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2023

Appeal Ref: APP/A5270/W/22/3301597
433 Uxbridge Road, Southall 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 216478FUL, dated 9 November 2021 was refused by notice dated 22 December 2021.
 - The development is described as demolish existing garage workshop/car rentals/office to build 2 new blocks of flats (Block A and Block B) to accommodate total 5 self-contained flats and on the ground floor to accommodate cycle stands, communal garden area and bin storage area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has submitted revised Floor Plan and Site Plan drawings (02A and 12A) as part of its appeal submission. These relate to minor changes to the ground floor internal wall and door layout to indicate turning circles for wheelchair use within the ground floor flats. They do not change the substance of the proposed development that was considered by the Council. With this in mind, and given that the Council and other interested parties have had the opportunity to comment on these revisions, having regard to the "Wheatcroft" principles¹, I am satisfied that the Council and interested parties would not be prejudiced by my consideration of them. Accordingly, I have taken them into account in my determination of the appeal.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would provide adequate living conditions for future occupants, having particular regard to the provision of internal and outdoor living space;
 - Whether the proposal would make adequate provision for inclusive and accessible accommodation; and

¹ Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JLP 37

- The effect of the proposal on highway safety.

Reasons

Character and appearance

4. The appeal site comprises a roughly triangular shaped parcel of land which lies on the north side of the A4020 Uxbridge Road, at its junction with Wharncliffe Drive. Much of the site was formerly set back from Uxbridge Road by a deep grassed highway verge, land which has now been hard-surfaced, and is currently fenced in and used for the parking of cars in connection with the car sales/car window tinting business which operates from the appeal site.
5. Vehicular access is from Wharncliffe Drive, and in addition to open car storage, there is also a single storey office structure at the western end of the site. A large, raised advertisement billboard is placed adjacent to the southern site boundary. Ground floor commercial units on the opposite side of Wharncliffe Drive appear to be connected to the business on the appeal site.
6. The opposite side of Uxbridge Road is characterised by multi-storey contemporary blocks of flats, and large-scale functional buildings associated with St Bernards Hospital and Ealing Hospital. However, the south side of Uxbridge Road within the vicinity of the appeal site, and including Wharncliffe Drive, comprises a visually separate, small, and mainly residential, estate, which is bounded by Brent Meadow to the east, large warehousing/commercial buildings to the west, and the railway line to the north.
7. The proposal is an amended scheme to that for 7 residential units which was refused by the Council in July 2021² and dismissed on appeal³ in August 2022. The previous scheme comprised a single building with a contemporary flat-roofed, part two- and part three-storey design, to be positioned close to a large proportion of the southern, northern and western site boundaries.
8. The current scheme differs significantly from the previous. It takes the form of two separate buildings of a traditional domestic scale and design. The hipped roof form, materials and fenestration take their cue from the prevalent two storey housing within the Wharncliffe Drive estate. Front building lines would be in keeping with those of the adjacent houses in Uxbridge Road and Wharncliffe Drive.
9. This residential area is dominated by two storey, hipped roof, semi-detached or terraced, similarly designed dwellings. Properties are positioned on straight, regular building lines, set behind small front gardens or frontage parking areas with low front boundary walls. Common features include tiled roofs with feature brick chimneys, with front gable features above projecting bay windows, front porches and rendered and painted walls.
10. This results in a uniform, and, apart from the appeal site, homogenous appearance and scale of development that contributes positively to the character and appearance of the area. The existing single storey office building and car storage, whilst being at odds with the surrounding residential development, has a low-key appearance and limited wider visual impact.

² Ref 212518FUL refused 9 July 2021

³ Ref APP/A5270/W/22/3290358 dismissed 9 August 2022

11. The aforesaid roofscape is visually prominent within the street scene and makes a significant positive contribution to the prevailing residential character of the locale within which the appeal proposal would be appreciated. This is largely due to its strong regular rhythm of design and the apparent uncluttered nature of the roof slopes when viewed from the street.
12. Notwithstanding the proposed hipped roof design, the incorporation of dormer windows into three of the roof slopes of each building would fail to respect the prevailing roofscape. The flat-roofed design of the side dormers would not be in keeping with the traditional hipped roof construction which is prevalent within the area. Moreover, all of the proposed dormers would occupy a considerable amount of the roof slopes within which they are proposed, due to their combined width, height and proximity to the roof ridge and eaves. This would result in unduly bulky and cluttered roofs, which would be at odds with the surrounding simple roof forms, where subservient chimneys are the focal points of the roofscape.
13. The proposed side dormers would result in the new buildings adopting a boxy and top-heavy roof form when viewed from the public realm, with those on building A appearing particularly incongruous and visually dominant due to their length and the siting of the building which means they would be visually prominent within the street scenes of Uxbridge Road and Wharncliffe Drive. The perceived visual incongruity of the side dormers would be compounded by relatively small areas of dormer glazing in relation to their overall size, with the fenestration set high into structure, leaving large areas of blank dormer wall. Moreover, additional factors such as either a lack of fenestration in the wall below, or an incongruous alignment of the glazed element of the dormers with windows below, would further contribute to the discordant nature of the dormer roof elements.
14. Both new buildings would respect the existing front building lines onto their respective streets. However, their positioning in relation to the site boundaries would be constrained due to the appeal site shape, resulting in a building layout which is at odds with that of the prevalent urban grain. Due to a combination of its two-storey length and proximity to its front and rear boundaries, building B would occupy an unduly cramped positioning on the site, which would be out of keeping with the prevailing regular linear arrangement of dwellings incorporating spacious accompanying outdoor living space to the front and rear of the dwellings.
15. Building A would present a long two storey flank wall which would be in a congested position adjacent to the southern, street-facing site frontage. The combined building orientation and proximity to the Uxbridge Road frontage would be anomalous within the prevailing layout of houses fronting this road. Moreover, a proposed lack of ground and first floor fenestration and the incorporation of a large box dormer would draw attention to the over-dominant mass of building presented to that road frontage and the failure of the building to actively engage with this main busy thoroughfare road.
16. Moreover, in the absence of any contextual street scene drawings showing the proposed juxtaposition of the proposed buildings in relation to the existing neighbouring properties in Uxbridge Road and Wharncliffe Drive, I am unable to ascertain whether the proposals would sit comfortably in relation to their immediate built surroundings in respect of their height and scale, having regard

to factors including roof ridge and eaves heights, and size and alignment of fenestration. This is of particular concern in regard to building B, having regard to its proposed proximity to the existing street-facing terraced housing, where such factors would be significant in determining whether it would visually assimilate into the street scene.

17. The Council has identified potential further harm to the character and appearance of the area arising from the proximity of the proposed built development to several trees within close proximity to the appeal site. These include trees adjacent to the northern and eastern site boundaries on the street and within the vicinity of the frontage of 1 Wharncliffe Drive and the adjacent access drive, and within the rear garden of 431 Uxbridge Road.
18. Having regard to the proposed positioning of the buildings, on-site parking and access in relation to these trees, in the absence of an Arboricultural Impact Assessment in accordance with BS5837:2012, or any other substantive evidence to the contrary, I am unable to conclude that the development would not cause unduly harmful damage to these trees, for example as a result of root compaction or damage to their branches or canopies. This could potentially result in the need for tree works, or even tree removal, which could detrimentally erode the soft landscaped green pockets within the built urban environment, which make a positive contribution to the prevailing built environment, particularly those trees which are highly visible from the public realm of the street. I am not satisfied, on the basis of the information before me, that the protection of these trees can be ensured by means of a planning condition.
19. For the above reasons, I therefore conclude that the proposal would have a materially harmful effect on the character and appearance of the area. This harmful impact has the potential to be exacerbated by damage to mature trees located adjacent to the appeal site. As such, the appeal scheme would be contrary to Policies 7.4 and 7B of the *Ealing Development Management Development Plan Document* (2013) (the DMDPD), Policies 1.1, 1.2 and 2.1 of the *Ealing Development (Core) Strategy 2026 Development Plan Document* (2012) (the Core Strategy) and Policies D3, D4, D8 and G7 of *The London Plan* (2021) (the LP).
20. These policies, amongst other things, seek high quality architecture and urban design and development proposals that enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through, inter alia, their layout, scale, appearance and shape, and ensure that, wherever possible, existing trees of value are retained.
21. For similar reasons, the proposal would also be contrary to Chapter 12 of the *National Planning Policy Framework 2021* (the Framework) which seeks to ensure well-designed places.
22. The Council's first reason for refusal also refers to LP Policy G5. However, this relates to urban greening and major developments, and, as such, it is not relevant in this instance.

Living conditions future occupiers

Internal

23. LP Policy D6 and Policy 3.5 of the DMDPD require housing developments to comply with the minimum space standards set out in the LP and the Nationally Described Space Standards (NDSS). There is a difference of opinion between the main parties as to whether Unit 3 would meet the required standard, with the Council considering there to be a floorspace deficiency of 4.8sqm. I do not have sufficient information before me in respect of the detailed floorspace calculations of each party, including the size of areas with head heights of between 0.9m and 1.5m, to come to a conclusion in this respect.
24. However, LP Paragraph 3.6.2 states that these are minimum standards which applicants are encouraged to exceed, and DMDPD Policy 3.5 requires that developments should be of the highest quality internally. Moreover, LP Policy D6 requires rooms to accommodate comfortable and functional layouts which are fit for purpose. With this in mind, in the absence of sectional drawings from the appellant, I am not persuaded, on the basis of the information before me, that the minimum floor to ceiling height of 2.5m for at least 75 per cent of the GIA of the roof level Unit 3 studio is capable of being provided.
25. In addition, Units 2, 3 and 5 would include areas of floorspace adjacent to the staircase walls which, due to their narrow form, would be unlikely to make a meaningful contribution to the use of the rooms within which they are located. This, compounded with an absence of information with respect to how the furniture/fittings would be arranged within habitable rooms throughout the proposal, and no indication of the position of the kitchens of Units 3 and 5, means that I cannot be satisfied that the proposed living accommodation would provide rooms which are of an adequate size and shape to comprise functional layouts for future occupants.
26. The quality of the proposed internal living accommodation would also be impacted upon by external factors. Due to its height, solid design, and position south of, and close to, proposed building B, the existing advertising structure adjacent to the southern site boundary would materially harm the outlook and light associated with the south-facing habitable room fenestration of the ground and first floor flats 4 and 5. The appellant has provided no demonstrable evidence that this matter is capable of being addressed by the removal or repositioning of the billboard, which lies outside of the appeal site boundary.
27. The large bay window of the principal bedroom of Unit 1 would directly face onto the proposed on-site parking spaces. The close proximity this window to the parking means that the occupiers of Unit 1 would be likely to experience noise and sleep disturbance impacts and loss of privacy associated with the use of the parking spaces by occupants of the development and their associated visitors, including tradesmen and deliveries, accessing and exiting the development.
28. There would be likely noise disturbance from vehicle engines, driver and passenger conversations, and in-vehicle music/entertainment systems, and light disturbance from vehicle headlights in connection with vehicular activity to and from the development, particularly given the perpendicular arrangement of

- parking spaces in relation to the building so that car lights would directly face the windows.
29. Short-term intermittent incidences of noise associated with vehicle and pedestrian comings and goings during the night would be set apart from the general background noise within the site vicinity, and arguably have a greater potential to disrupt sleep patterns than more regular, constant sources of background noise, and would be expected to be increased during periods of warm weather when the bedroom window is more likely to be open.
 30. Moreover, given that the bay window would be the sole and large window serving the main bedroom, it would not be practical or desirable to screen it with new landscaping or fencing in front of the building, which would need to be of such a height and thickness that it would prevent views into and out of the front-facing window.
 31. The appellant has not indicated whether one of the parking spaces would be specifically allocated to Unit 1, and even if this were to be the case, this would not sufficiently mitigate the harm I have identified in respect of the remaining parking space.
 32. Additional privacy impacts upon the occupiers of Unit 1 would also result from the close proximity of the rear elevation study window to the communal living space between the buildings. As proposed, users of the shared outdoor living area would be able to look directly into the study window at close proximity.

External

33. DMDPD Policy 7D and LP Policy D6 require a minimum of 5sqm of private outdoor space to be provided for 1-2 person dwellings with an extra 1sqm for each additional occupant. Flats 1 and 4 would meet this size provision, and the provision of suitable boundary treatment could provide these spaces with adequate privacy and protection from noise disturbance and air quality impacts having regard to their positions close to the proposed communal garden areas and Uxbridge Road.
34. No private amenity space is proposed for the remaining 3 units, and as such, these flats would not provide satisfactory living conditions for the future occupiers with respect to private amenity space provision. I acknowledge that the development would also be served by some communal garden space. However, this would not represent private space for any particular unit and could not be used to store any play equipment or clothes drying. As such, I do not consider that this space would mitigate or compensate for the lack of usable private space for Units 2, 3 and 5.
35. Moreover, as previously noted, in the absence of any cogent evidence to the contrary, the retention of the large advertisement board which is sited immediately adjacent to the southern boundary of the southernmost communal grassed area is assumed. This structure, due to its combined height, length and orientation in relation to the garden area, together with the partial enclosure of this part of the communal garden by buildings to both sides, would result in a notable amount of overshadowing of this area, thereby diminishing its quality and practicality for its intended use.
36. For the above reasons, I therefore conclude that the proposal would not provide adequate living conditions for future occupiers of the development,

having particular regard to the provision of internal and outdoor living space. As such, the appeal scheme would conflict with Policies 3.5, 7B and 7D of the DMDPD, Policies 1.1 and 1.2 of the Core Strategy, and LP Policies D6, D7 and H2, in so much as these policies collectively require housing development to be high quality and provide a healthy and safe place to live.

37. This is generally consistent with guidance within the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users (Paragraph 130).
38. The Council's second reason for refusal refers to LP Policies SI 8 and T5. These relate to waste capacity and cycle parking provision respectively, which are not cited by the Council as reasons for refusal. On the basis of the evidence before me, including the appeal documents and my site visit observations, I have no reason to disagree, and consider that these matters are capable of being dealt with by means of conditions. As such, Policies SI 8 and T5 are not relevant in this instance.
39. Reference is also made to Core Strategy Policy 2.1 in the second reason for refusal. This relates to realising the potential of the Uxbridge Road/Crossrail Corridor, and as such, I do not find it to be directly relevant to the consideration of this main issue.

Accessibility

40. LP Policy D7 reinforces the requirement for accessible housing within London, and the supporting text 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 Buildings Regulations applies) meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.
41. 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.
42. In accordance with Paragraph 3.7.7 of the supporting text of LP Policy D7, 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. This approach is reinforced by LP Policy H2 which states that homes located on the ground floor on minor development should meet the requirements of Policy D7. This would equate for the need for one M4(2) compliant unit and one M4(3) compliant unit at ground floor level.
43. The appellant has confirmed that the ground floor units would be accessible for disabled people, and these flats would be provided with step free access. However, notwithstanding that the revised drawings indicate room for a wheelchair turning circle in the hallway of each unit, I am not persuaded, on the basis of the evidence before me, that for wheelchair users or older people, the ground floor flats would provide easy manoeuvrability or appropriate accessibility, having regard to the corridor widths, the size and layout of the

bathrooms, and need to consider what space would be available after furniture is in place, particularly in the bedrooms and study rooms.

44. For the above reasons, I conclude that it has not been satisfactorily demonstrated that the proposal would make adequate provision for inclusive and accessible accommodation. As such, it would be contrary to LP Policies D7 and H2, in so much as these policies seek to ensure the provision of accessible housing.

Highway safety

45. The proposal would result in the extension of an existing vehicular crossover, which currently serves three vehicular access points to the appeal site, an access drive to the north of the site, and the residential property at 1 Wharncliffe Drive. As such, it would potentially enable the enter/egress of four vehicles at any one time, and notably increase the chances of more than one vehicle using the crossover at the same time. This would significantly increase the risk of conflict between users of the pavement, including visibility and mobility impaired pedestrians, wheelchair, mobility scooter and pram and pushchair users.
46. The potential for such conflict would be compounded by the proposed on-site parking arrangement and depth, which would not facilitate enter/egress in a forward gear and would necessitate the reversing of vehicles either into or out of the site. Moreover, visibility during such vehicle movements would be restricted during the occupation of the on-street parking space which lies to the south of the proposed crossover extension.
47. The proximity of the proposal to the busy junction of Wharncliffe Drive with Uxbridge Road, which provides a main source of access into the residential area, would further exacerbate the potential for highway danger as a result of vehicle collisions with each other, as well as with users of the pavement, noting the traffic-lighted nature of the road junction which means that vehicles queue upon exiting Wharncliffe Drive.
48. The area around the appeal site has moderate public transport links. The site is located within a Controlled Parking Zone (CPZ) with high parking pressure. I saw during my site visit, that on-street parking opportunities within the locality of the appeal site are limited due to a large amount of off-street parking, and there were few on-street spaces available at the time of my visit. This took place on a weekday afternoon, and whilst this represented a specific moment in time, there is no reason to believe that this situation is not typical.
49. The proposal would result in a significant increase in the number of residents' vehicles within this constrained parking area. This, together with an associated loss of an existing on-street parking space, would notably add to the existing competition for on-street parking within the site locality, and an increased potential for driver frustration and illegal vehicle parking to the detriment of highway safety.
50. The above issues could be addressed by the removal of the proposed parking from the development, and the Council has indicated that, should the development have been acceptable in all other respects, this would have been sought, together with the securing of the development as car-free, with any permission being subject to an obligation that removes parking permit

eligibility for all future occupants. I note that the appellant has raised no objection to the principle of a legal agreement restricting the issue of car permits to future occupants of the development.

51. I have determined the appeal on the merits of the scheme before me, which includes on-site parking. Moreover, I do not consider that this matter is one that is 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 to be appropriate.
52. 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.
53. For the above reasons, I therefore conclude that the proposal would materially harm highway safety. As such it would be contrary to the sustainable travel and parking management goals of LP Policies T4 and T6, in so far as these policies aim to restrict car parking in line with levels of existing and future public transport accessibility and connectivity, and to ensure that development does not increase road danger.
54. This accords with advice in the Framework which seeks to ensure that development proposals provide safe and suitable access to the site and create places that are safe and minimise the scope for conflicts between pedestrians, cyclists and vehicles (Paragraphs 110 and 112).

Other Matters

55. I acknowledge that the site is in an accessible location with respect to public transport and community facilities and services. Also, there would be a small economic benefit as a result of the construction of the appeal scheme and a small, sustained benefit to the local economy following the subsequent occupation of the flats. Moreover, 5 additional dwellings would make a modest contribution towards the Council's supply of housing. The proposal would also replace an incongruous land use with a residential use which is more appropriate to the site location.
56. The above benefits attract limited weight in support of the proposal, but do not outweigh the significant harm that I have identified in respect of the impact on the character and appearance of the area and highway safety, and lack of adequate living conditions for future occupiers of the development and inadequate provision for inclusive and accessible accommodation. These are matters that cumulatively attract significant weight against the scheme.
57. Notwithstanding that the Framework encourages the effective use of land in meeting the need for homes, including giving substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, this is not unqualified, and would not address or outweigh the aforementioned harm that I have identified in respect of the main issues.

Conclusion

58. 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.

59. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR