



Appeal Decision

Site visit made on 18 July 2023

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/E5330/W/22/3304828

Woodlands Heights, Vanbrugh Hill, Blackheath SE3 7EL

- 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 Gutstein of Triplerose Ltd against the decision of Royal Borough of Greenwich.
 - The application Ref 20/0710/F, dated 24 February 2020, was refused by notice dated 11 February 2022.
 - The development proposed is described as 'Proposed extension to existing 5-storey building to provide an additional floor of residential floorspace comprising of 2 x 1 bedroom and 6 x 2 bedroom flats, with two roof terraces. (This application may affect the setting of the Westcombe Park and Greenwich Park Conservation Areas). (Re-consultation, Amended Description).'
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Mr Gutstein of Triplerose Ltd against the Royal Borough of Greenwich. That is the subject of a separate decision.

Preliminary Matters

3. During the application, the proposal was amended to form two roof terraces instead of private roof terraces for each of the flats. I have used the amended description, taken from both the Council's decision notice and the appeal form, in my banner heading above.
4. The Council's second reason for refusal referred to the proposal having a detrimental impact on the living conditions currently enjoyed by residents of Lasseter Place properties in terms of loss of sunlight, overshadowing and increased sense of enclosure. The appellant submitted a sunlight and daylight assessment¹ since planning permission was refused which concluded that residents of surrounding properties would be protected from the impact of loss of sunlight and overshadowing. On this basis, the Council is no longer defending that part of its second reason for refusal in respect of loss of sunlight and overshadowing. I have proceeded to deal with the appeal on this basis.
5. During the course of the appeal, the appellant submitted a signed Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended), dated 30 January 2023. This makes provision for car free development and restrictions on parking permits.

¹ Daylight and Sunlight Report prepared by Right of Light Consulting report dated 1 April 2022

6. The appellant has submitted an alternative landscaping layout for the roof terraces as part of the appeal proposal. The Council considers it inappropriate to accept this updated plan as it would be a material departure from the proposed scheme on which the application was considered. I have had regard to the 'Wheatcroft' principles including whether amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity. I have come to the conclusion that they would. I have therefore proceeded to base my decision on the proposals submitted with the application and which have been subject to consultation.

Main Issues

7. The main issues are the effect of the proposed development on:
- the living conditions of neighbouring occupants, with particular regard to an increased sense of enclosure to 6 Lasseter Place and 31 Vanbrugh Hill and loss of privacy, noise and disturbance and light spillage to adjacent residential properties;
 - traffic stress to the local highway network and harm to highway safety; and
 - the character and appearance of the host property and the area, including the setting of the Westcombe Park Conservation Area and the East Greenwich Conservation Area.

Reasons

Living conditions

8. Woodlands Height is a substantial, five-storey building with a U-shaped footprint. The wings of the building extend to the south and towards Lasseter Place, which lies upslope of the appeal building. Lasseter Place is a small cul-de-sac of semi-detached chalet bungalows as well as a small, detached property, 31 Vanbrugh Hill (No 31). These are positioned in close proximity to, but also upslope of, the appeal property.
9. The scheme proposes the formation of an additional storey which would follow the existing building footprint. Two large roof terraces would be formed above, on the south-eastern and south-western wings of the building. An existing, wide and tall chimney stack on the southern elevation of each wing would be raised to an equivalent height above the new roof level to that which currently exists.
10. Number 6 Lasseter Place (No 6), at its closest point, is located around 11m from the south-eastern wing of the appeal building. Its main rear façade is set back approximately 21m from the south-western corner of the building, but offset so that it does not directly face towards it. No 31, which is opposite and separated from No 6 by a parking area, would be a little further from the south-eastern corner of the appeal building but similarly offset from it. Both properties have rear gardens. No 31's wraps around this property to the north and east, whilst the main garden area to No 6 is to the west.
11. Due to the steep topography of Vanbrugh Hill, the appeal building, despite its five-storey height, does not appear substantially taller than properties on Lasseter Place. Furthermore, the bulk of the south facing elevation of its south-

eastern wing extends across the parking area between Nos 6 and 31 and a short distance across its narrow side garden.

12. The proposal would increase the height of the appeal building by approximately 3 metres. This would lead to a greater sense of enclosure of the garden space to these two properties arising from the increased height with the raised chimney stacks adding to this. The offset position of the southern elevation of the eastern wing of the appeal building between the two properties and at the rear of their parking areas, would limit the extent to which this is experienced within the main rear gardens. Nevertheless, these properties have relatively small gardens and the additional height and bulk of the appeal building and its proximity would make it appear overbearing in this context and harmful to the living conditions of these occupants.
13. The proposed roof terraces would occupy much of the roof area with a set back of at least 2m from the rooftop perimeter and enclosed by a 1.1m high glazed balustrade. Each roof terrace would serve four flats. The Council has not specified which residential properties would be harmed by the proposed roof terraces in terms of loss of privacy, general noise and disturbance and light spillage.
14. The raised chimney stacks would occupy the intervening space between the setback balustrade around the roof terrace and the properties below on Lasseter Place. These chimney stacks in combination with the setback of the terraces would reduce the opportunity for overlooking.
15. The intervening trees in the space between the Lasseter Place properties and the appeal building, some of which are protected under a Tree Preservation Order, would also provide some additional screening from the terrace. Whilst this would be reduced in winter months when the trees would not be in leaf, the branches would provide some filtering of views from the terrace. This would also be at a time of year when use of the terrace is likely to be less frequent. Nevertheless, I concur that there could be an increased perception of being overlooked experienced by occupants of the Lasseter Road properties which would detract from their enjoyment of their private outdoor amenity space.
16. At my site visit, I also observed that views were possible from the roof into the windows of the upper floors of flats within the opposite wings. Proposed lift motor rooms above the existing projections on each side of the roof terraces would limit opportunities for overlooking from much of the terraces. Nevertheless, it would be possible from the southern section of each terrace.
17. It seems to me this could be mitigated by additional landscaping at roof level as suggested by the appellant. Any such proposal should be properly considered by the Council and could be secured through the imposition of a suitably worded condition in the event the scheme were to be considered acceptable in all other respects.
18. Each terrace would provide communal outdoor amenity space for four households and their visitors. The appellant has submitted a noise assessment in respect of noise arising from use of the proposed roof terraces. In the absence of a published methodology for assessing noise arising from residential outdoor terrace areas, it is based on a comparison between the predicted noise arising from use of the terraces and the prevailing ambient noise levels at nearby residential properties. The assessment assumes the worst case scenario

noise level would be raised voices associated with the use of the terraces by 32 people. It concluded that noise arising from the roof terraces would be negligible and highly unlikely to cause disturbance to nearby occupants.

19. The Council is concerned that the assessment did not consider the use of the terraces for playing music, use of tableware and glassware, large gatherings or children playing. The appellant's noise consultant has advised that raised voices would be louder than the use of tableware and glassware, therefore a separate assessment of this would be unnecessary. Nonetheless, it seems to me that large gatherings, children playing or extended use of the terraces could be more disturbing than raised voices and therefore harmful to neighbouring occupiers.
20. In respect of these potential sources of disturbance, the appellant has proposed to put in place a 'Terrace Management Plan' which would control the use of the terrace. This would effectively prevent large gatherings, ball games, unaccompanied children under 12 years and playing of music. The management plan would also require access to the terraces to be controlled by a key fob which would only allow access between 0800 and 2200 hours, with exit only after this time and external lighting after this time provided for the benefit of wayfinding only. Rules and regulations would be incorporated in the residential leases through which any infringement of the rules for the use of the terraces could be addressed.
21. Whilst I note the Council's concerns about enforcement, it seems to me that by including this as a requirement within a residential lease, the use of the terraces could be controlled in terms of noise generating activities and light spillage. A requirement for a management plan could be conditioned and I note that this approach has been taken by another Inspector in relation to an appeal² in Woking. However, it seems to me that some of these measures would limit residents' enjoyment of using the space, such as being monitored by CCTV when enjoying private time outside; or requiring an adult presence with children at all times. This would detract from the quality of the space and therefore would not be appropriate. For this reason, I would not impose such a requirement and therefore harm to neighbouring occupants could not be avoided by this approach.
22. I appreciate that I have taken a different view to the Woking appeal Inspector. However, there is nothing to suggest that the use of the terrace in that case would be monitored by CCTV. I also note that acoustic screening is proposed in that instance which is not proposed here. On the information provided to me, I do not find the circumstances directly comparable.
23. It would be possible to control light spillage from the terraces through management of times when external lighting on the terraces could be on. This would be relatively simple to control and it would be reasonable to do so through the imposition of an appropriately worded planning condition. This would avoid undue harm to the living conditions of neighbouring occupants in this regard.
24. I recognise nearby properties, including the blocks of flats to the west of the site have roof terraces. However, I have little information about how these relate to neighbouring properties nor if there are any restrictions on their use. I

² APP/A3655/W/20/3252346 – New Central Development, Bradfield Close

also have no information whether these have given rise to any enforcement issues or noise complaints. I therefore give these limited weight.

25. I have been referred to an appeal decision³ in support of the appellant's position where the Inspector concluded that noise arising from the use of a roof terrace would not be likely to be much greater than that from a ground level garden. However, that scheme is not comparable as it related to a terrace to a single dwelling and not two large communal terraces, each serving four households. I also do not have full details of that scheme and how it related to surrounding residences. I therefore give this very limited weight.
26. I conclude that the proposal would harm the living conditions of neighbouring occupiers, with particular regard to an increased sense of enclosure to Nos 6 and 31 and noise and disturbance to adjacent residential properties. It would therefore conflict with Policies D13 and D14 of the London Plan 2021 (the LP), Policies DH(b) and E(a) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies 2014 (the CS) and the Royal Borough of Greenwich Residential Extensions, Basement and Conversion Guidance Supplementary Planning Document 2018 (the SPD). Together these require development to protect the amenity of adjacent occupiers and ensuring it does not result in an unneighbourly sense of enclosure, to reject proposals that would be likely to result in the unacceptable emission of noise and to ensure good design to mitigate noise disturbance.

Highway safety

27. The proposal is for 8 additional flats. These would be provided as car free development. The appeal site has a Public Transport Accessibility Level (PTAL) score of 3 which is midway on the scale of 0-6, where 6b is excellent and 0 is poor in terms of accessibility. It is located within walking distance of the Maze Hill railway station and also served by numerous bus routes. Car free housing would be appropriate in these circumstances. The executed UU would appear to secure this. Had I been minded to allow the appeal I would have sought clarification from the Council on this matter.
28. As car free housing, there would be no additional private car trips associated with the scheme and therefore no additional traffic stress on the local highway network. However, the additional residential use may give rise to a greater number of deliveries and servicing vehicular movements than currently occurs, particularly as the residents would not have access to their own private transport and would therefore be likely to make greater use of supermarket and other deliveries to meet their day-to-day needs.
29. The appellant has submitted a Transport Technical Note (the TTN)⁴ in response to the Council's highway safety concerns. The TTN indicates that the proposal would give rise to an additional 3 two-way deliveries per day, with 2 of those occurring within the peak hours between 10am and 11am. Cumulatively with deliveries associated with the existing flats within the building, the report states that these would equate to one vehicle every 7 minutes during the peak hours between 10am and 11am. In this scenario, this would amount to 9 deliveries in one hour and a total of 27 deliveries per day in association with all the flats within the building. Deliveries would typically arrive by large goods

³ APP/E5330/D/15/3134853 – 87 Chelsworth Drive

⁴ Ardent Consulting Engineers – Transport Technical Note, Ref 2202820-01B, July 2022

vehicle (LGV) associated with courier and supermarkets and would not therefore remain on site for a long period.

30. I note the Council has raised concerns that the underpinning data taken from TRICS database relates to Outer London developments and may not fully reflect the circumstances of the Inner London location of the appeal site. It has however not specifically disputed the number of additional trips associated with delivery and service vehicles presented by the appellant. I have therefore relied upon these numbers.
31. Three additional deliveries per day would not materially increase traffic on the local highway network, particularly as delivery vehicles would already be travelling around the network making deliveries elsewhere. However, the additional vehicle movements within the site is a matter of concern to which I now turn.
32. The appeal site is served by a vehicle access from Vanbrugh Hill with a driveway and on-site car parking enclosing the building to the north and east and a non-vehicular access comprised of stairs off Restell Close to the north. The main access onto Vanbrugh Hill is the only step free pedestrian access to the site. It is approximately 4m wide. It has no separation between motorised vehicles, pedestrian or cycle traffic. It also offers limited visibility due to the presence of brick pillars either side. Since this is the only step-free access to the site, users will include more vulnerable pedestrians, such as those with younger children using prams and pushchairs as well as disabled users.
33. There is evidence from interested parties, notably existing residents of the appeal building, that there are concerns about the current access arrangements to the site and the risk of conflict between pedestrians sharing the same access to the site as motorised vehicles. If existing shared access arrangements on the site cause safety concerns for occupants, then any increase in the intensity of that access by vehicular traffic is likely to exacerbate those concerns.
34. The TTN demonstrates that a LGV could enter and exit the site in forward gear. This relies on the creation of a new delivery space within the site, which would utilise a space in the control of the appellant. The appellant has stated that this space is currently vacant and not leased to any of the existing flats within the building. The availability of this space has been disputed by interested parties, including one who has advised the space in question belongs to them. I have no conclusive evidence that it is or is not vacant.
35. If the space were available to be repurposed for deliveries, it would provide more space for vehicles to manoeuvre on site. However, given the findings of the TTN about the overall number of trips and when they are likely to occur, it is highly likely that multiple delivery vehicles would be on the site at the same time during peak hours. Should this occur, it seems to me that those delivery vehicles would stop within the car parking area, blocking it up, potentially having to either reverse within the site in order to exit the site or reversing out of the site onto the highway. The same would occur in the event the space were not available, where delivery vehicles would have to manoeuvre within the parking area which has limited space. In all these scenarios, there would be an increased risk of conflict between road users and harm to highway safety, both within the appeal site as well as on the public highway.

36. In the event the space were to be used for delivery vehicles, it would be unlikely to lead to a significant increase in parking demand in the surrounding area as it is a single space.
37. The site does not currently provide any cycle parking. The proposal would provide 40 covered cycle parking spaces, 15 of which would serve the proposed flats and the remainder for the benefit of existing residents. This would be a significant benefit of the scheme in encouraging travel by means other than the private car.
38. The TTN sets out that the uplift in units would result in an increase in only 4 two-way daily cyclist and pedestrian movements. However, this would amount to a more intensive use of the shared access where current arrangements are unsatisfactory. In addition, it seems to me with the provision of additional cycle spaces for other occupants would encourage more people to use bicycles. Whilst a positive factor, this would also result in more cycle movements per day which may reduce the number of pedestrian and motorised vehicle movement. It is not evident that this is included within the additional cyclist movements identified per day.
39. Paragraph 112 of the Framework sets out amongst other things that development should give priority first to pedestrian and cycle movements within the scheme; address the needs of people with disabilities and reduced mobility; create places that are safe, which minimise the scope for conflicts between pedestrians, cyclists and vehicles; and allow for the efficient delivery of goods and access by service and emergency vehicles.
40. I appreciate that the existing access to and layout of the site does not meet the requirements of paragraph 112. Step free access currently exists and would continue to do so but it is unsatisfactory due to there being no separation between different users. The access would become busier both due to the increase in dwellings on the site and the associated movements of pedestrians, cyclists and vehicles associated with that. It is also likely that there would be a further increase in cyclists given the increase in cycle parking provision on site although I accept that this may lead to a decrease in trips by either walking or motorised transport.
41. It is not the role of the scheme before me to address existing on site concerns. However, it exacerbates these concerns about the increased vehicles, cycle and pedestrian movements on the site.
42. I appreciate that there is no evidence of recorded incidents on the highway arising from Personal Injury Accidents. It is not clear that such data would be collected within the appeal site which is private land, this does not therefore advise me either way.
43. I recognise that the Council's Highways officers did not object to the scheme. However, they made no reference to deliveries within the site and I have no clear evidence as to what their view on this was. This in itself does not mean that these issues are not harmful.
44. The proposal would not add traffic stress to the local highway network however the more intensive use of the site would lead to an increase in delivery and servicing vehicles manoeuvring both within the site as well as onto and off the site. This would increase the risk of conflict between pedestrians, cyclists and

motorised transport within the site, at its access and on the public highway, it would therefore cause harm to highway safety. It would therefore conflict with Policy T4 of the LP and Policy IM(b) of the CS which together require new developments to provide for the needs of their users in terms of walking and cycling and to not increase road danger.

45. As I have found that there would not be a material increase in traffic generation on the highway network, I have found no specific conflict with Policy T2 of the LP which requires development proposals to demonstrate how they will support Healthy Streets and reduce the dominance of vehicles on London's streets.

Character and appearance

46. The appeal site occupies a prominent position on the west side of Vanbrugh Hill at its junction with Restell Close to the north. Vanbrugh Hill rises steeply from north to south. Woodlands Heights is an imposing five-storey plus lower ground floor flatted development. It is set back from the street frontage by an area of grass, trees and a parking area. At its closest point, it is approximately 18m from the road. The trees are mature and provide some enclosure of the site.
47. Surrounding development on the opposite side of Vanbrugh Hill comprises a mix of two and three-storey Victorian and Edwardian properties, in a mix of detached, semi-detached and terraces. A few of these are locally listed. To the south of the site, there is a small cul-de-sac of modern, semi-detached cottages on Lasseter Place. These form part of the Westcombe Park Conservation Area (WPCA) which extends around the site to the east and south.
48. The appeal site lies within the setting of the WPCA. However, the character of the existing building is unlike development within the WPCA as it is a substantial building of five-storeys unrelated in scale to the low rise buildings or the pattern of development along the nearby streets within the WPCA. It nevertheless forms a prominent building within the setting of the WPCA, visible in views from the conservation area, from Vanbrugh Hill as well as west along both Humber Road and, to a lesser extent, Dinsdale Road.
49. The appeal property was excluded from the WPCA as it had little in common with the majority of buildings within the WPCA. It was also considered to have been unsympathetically refurbished with UPVC windows as well as a large box-like structure at roof level comprising the housing for the motor room for the lifts within the building. This roof top extension significantly detracts from the appearance of the building and detracts from the WPCA as poor quality development within its setting.
50. The south-west corner of the appeal site is adjacent to the Greenwich Park Conservation Area (GPCA). It therefore lies within the setting of this conservation area also. This is a large conservation area formed of three broad character areas. The appeal site is adjacent to the Maze Hill and Greenwich Park East character area which comprises residential development. Closest to the appeal site, the GPCA includes a well-established area of woodland, Westcombe Woodlands, which lies behind development along Maze Hill. The appeal site, whilst within the setting of the GPCA is not widely visible from it and unrelated to the woodland which it adjoins. I find it makes no contribution to the significance of this conservation area.

51. Development to the west of the site, and outside of the conservation areas, is of a more contemporary character, including the eleven-storey Leamington Court apartment tower and the seven to ten-storey high Seren Park Gardens apartment building.
52. The scheme has been designed to appear as a continuation of the building with use of matching materials and architectural features. The extensions would be positioned either side of the lift motor room, incorporating that structure. The extensions would not lead to a significant change in the scale and form of the existing building as it would both follow its design and would add a modest 3m increase in the height of the building. The roof terraces above, whilst enclosed by a 1.1m high glass balustrade, would be set in from the roof edge, and would not add to the overall bulk. In this respect, the extensions would appear as proportionate and sympathetic additions to the host property.
53. Moreover, as the extensions would subsume the existing lift motor room, they would enhance the appearance of the building by disguising this anomalous and discordant feature. Subject to the use of appropriate materials, which could be secured by planning condition, the scheme would result in an improvement to the existing building.
54. Due to the position of the site on Vanbrugh Hill, the proposal would be viewed in different contexts. There would be an improvement in long distance views from the north as the rooftop extension, which is particularly visually prominent and unattractive in these views, would be disguised by the proposal. In the context of the high-rise development along Restell Close, it would be appropriate in scale and design.
55. When viewed from Vanbrugh Hill and the streets off this, namely Dinsdale Road and Humber Road, within the WPCA it would appear as a larger building but a more coherent and balanced structure without the anomalous box sitting atop it. The existing building provides a degree of enclosure to Humber Road, when viewed from the east. The additional height would give rise to a marginal increase in this but not to the extent that it would be overbearing or unduly dominant, particularly given its substantial set back from the street.
56. Some screening of the site is provided by the established vegetation surrounding the appeal site. This softens the appearance of the existing development and would similarly provide that benefit in respect of the proposal. I nevertheless accept that the effectiveness of such screening would fluctuate with the seasons.
57. Roof terraces exist within the locality and are not an uncommon feature. I do not find such a feature harmful, particularly on a building which is unique in its character and appearance in its local context as is the case here.
58. The appeal building at five-storeys in height is considerably taller than the one to two-storey properties to the south on Lasseter Place within the WPCA. The increased height of the appeal property would only be visible from limited public viewpoints within Lasseter Place where it would be seen through gaps between the houses on this street beyond intervening trees and vegetation. As I have already found, this would be harmful to the living conditions of occupants of some of these houses due to its enclosing effect on their private space. However, in terms of its impact on the public realm, the proposal would be less dominating. For this reason, it would not harm the character or

appearance of the area or the setting of the WPCA when viewed from Lasseter Place.

59. I have found that the proposal would enhance the appearance of the host property in both long and short distance views. The additional height would be visible but not dominant. The limited harm that would arise from this would be outweighed by the overall improvement to the appearance of the building. As such, I find that the proposal would not adversely affect the streetscene or the character and appearance of the surrounding area. Given my findings, I conclude that there would be no harm to the setting of either the WPCA or the GPCA. The proposal would not harm their significance.
60. I therefore find that harm in respect of the character and appearance of the host property, the area and the setting of the conservation areas would not occur. The scheme would therefore accord with Policies D3, D4 and HC1 of the LP, Policies H5, DH1, DH3 and DH(h) of the CS, the Framework, the SPD and the GPCA Appraisal 2010 and the WPCA Character Appraisal 2010. Together these require development to be a high quality of design and to positively contribute to the improvement of the built environment, enhance local context, to respond to the existing character and to respect, enhance and conserve the significance of heritage assets.

Planning Balance and Conclusion

61. Paragraph 11 d) of the Framework sets out that for decision taking where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
62. I have found no harm to heritage assets as I set out above. Paragraph 11 d) i. and the provisions of footnote 7 would not therefore apply. The tilted balance is therefore engaged as the Council cannot currently demonstrate a five year supply of deliverable housing sites. It has a supply of 3.1 years. This is a significant shortfall.
63. The scheme would deliver 8 market dwellings. This is a modestly sized development which would make a small contribution in terms of addressing the Council's shortfall in housing land supply. It would utilise previously developed land by building above an existing building. This would make efficient use of land. There would be some economic benefits both during construction and longer term in the occupation of the proposed development with additional benefits from CIL payments, New Homes Bonus and Council Tax receipts. The scheme would also encourage travel by means other than the private car by existing tenants due to the provision of cycle parking. The proposal would not harm the character and appearance of the area and would improve the appearance of the host property, this would be a benefit of the scheme. Cumulatively, the benefits of the scheme carry moderate weight.
64. However, my finding is that the proposal would cause harm to the living conditions of adjoining occupants in a number of ways. It would also increase the risk of conflict between users of the site and would be harmful to highway

safety. These adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. My conclusion is therefore that the scheme conflicts with the development plan as a whole.

65. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR