



Appeal Decision

Site visit made on 23 October 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2024

Appeal Ref: APP/E5330/W/24/3342888

54 Westcombe Hill, Blackheath, London, SE10 0LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Milan Real Estate Ltd against the decision of the Council of the Royal Borough of Greenwich.
- The application Ref is 23/3006/MA.
- The application sought planning permission for construction of Class C3 residential units with ancillary car and cycle parking, refuse storage, amenity space and landscaping, without complying with conditions attached to planning permission Ref 21/1886/F dated 8 March 2022, as amended by non-material minor amendment ref. 23/1781/NM.
- The conditions in dispute are Nos 2, 8, 9, 10 and 13 which state that:
- Condition 2 - The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below: 19.189 0010 P01, 19.189 0200 P05, 19.189 0201 P04, 19.18 0202 P03, 19.189 0203 P03, 19.189 0204 P02, 19.189 0301 P03, 19.189 0302 P03, 19.189 0400 P02, 19.189 0401 01, Air Quality Assessment, Noise Impact Assessment, Daylight Sunlight & Overshadowing Assessment, Design & Access Statement, Flood Risk Assessment, Planning Statement, Phase 1 Preliminary Risk Assessment (Desk Study), Transport Statement, Sustainability Statement and Technical Note. Reason: In the interests of good planning and to ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.
- Condition 8 - a) The development hereby approved shall not be occupied until the refuse and recycling facilities as shown on drawing No. 0200 Rev. P05 have been provided. b) The refuse and recycling facilities as shown of drawing No. 0200 Rev. P05 shall be retained as such for the lifetime of the development. Reason: So that the appropriate refuse and recycling facilities are provided as part of the development, thereby promoting the reduction in household waste that goes to landfill and to ensure compliance with Policy SI7 of the London Plan (2021) and Policy DH1 of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (July 2014).
- Condition 9 - a) A minimum of 18 secure and dry cycle parking spaces shall be provided within the development as indicated on drawing No. 0200 Rev. P05. b) All cycle parking spaces shall be provided and made available for use prior to the first occupation of the development and maintained thereafter. Reason: To promote sustainable travel and to ensure compliance with Policy T5 of the London Plan (2021) and Policies IM4, IM(b) and IM(c) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (July 2014).
- Condition 10 - a) The car parking space as shown on drawing No. 0200 Rev. P05 shall be secured as a disabled parking space only b) The car parking space as shown on drawing No. 0200 Rev. P05 shall be provided prior to the first occupation of the development and shall thereafter be retained for the lifetime of the development. c) The car parking space as shown on drawing No. 0200 Rev. P05 shall be fitted with electric vehicle charging facilities and shall be retained as such for the lifetime of the development. Reason: So that the appropriate level of off-street parking facilities is provided as part of the development, that the spaces encourage the use of low emission

vehicles and ensure compliance with Policies T6 and T6.1 of the London Plan (2021) and Policies IM(b) and IM(c) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (July 2014).

- Condition 13 – The development hereby approved shall consist of 8 residential units comprising 1x3b5p unit, 2x3b4p units, 1x2b4p unit and 3x1b2p units.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. A new set of proposed drawings, together with a Daylight and Sunlight Report and a Landscape Design Statement, were submitted with the appeal. The Procedural Guide: Planning Appeals (England) advises that the appeal process should not be used to evolve a scheme. In the interests of fairness, it is important that what is considered by an Inspector, is essentially the same as what was considered by the Council, and on which interested people's views were sought. The Council has not commented upon the amended plans and documents and there is no evidence before me to suggest that other interested parties have been notified of these or given an opportunity to comment upon them. As I cannot be satisfied that no party would be prejudiced by my acceptance of the amended plans and supporting information, I have determined the appeal based upon the plans that were submitted with the application and on which local residents were formally consulted by the Council. I have however had regard to the Daylight and Sunlight Report in so far as it relates to the plans considered by the Council.

Background and Main Issues

3. Planning permission ref 21/1886/F was granted for 8 residential units in March 2022 and was subject to 12 conditions. This development has been completed and is now occupied. A non-material minor amendment ref 23/1781/NM was subsequently granted, in August 2023, under Section 96A of the Town and Country Planning Act 1990 (the Act). Amongst other things, this amended the description of development by removing the reference to the number of residential units proposed and added a new condition 13, to control the number and mix of residential units. Whilst I have not been provided with a copy of that decision the amended description and new condition 13 are quoted in other submitted documents. I have taken the wording of the other conditions and drawing numbers referred to in the banner heading above, from the original decision notice.
4. The proposal before me seeks a material amendment under Section 73 of the Act, to enable the approved plant and electrical rooms to be relocated to the approved bicycle store, and to enable the approved refuse and recycle store, plant and electric room, and part of the covered entrance to be converted into an additional ground floor studio flat with its own enclosed area of external amenity space. The provision of new external bicycle, refuse and recycling storage areas, and amended private and communal landscaping arrangements is also proposed.
5. There is no dispute between the parties that the proposal constitutes a material amendment. Based upon the evidence before me, I have no reason to reach a different conclusion on this matter. The main issues are therefore the

effect of the proposed amendments on i) the appearance and design quality of the development; and ii) the living conditions of future occupiers of the proposed additional studio flat with regard to daylight, sunlight, privacy, outlook, and standard of outdoor space.

Reasons

Design

6. There are views into the appeal site from multiple public locations, including the site entrance off Mayston Mews, Westcombe Hill, the footbridge over Westcombe Hill and the A102, and from the Westcombe Park railway station exit. The appearance of the site is currently very stark, and the absence of any form of soft landscaping whatsoever is very apparent.
7. The approved plans show an internal refuse and recycling store, and internal bicycle storage, within the building envelope. This demonstrates good design, which has been planned having regard to functionality and the convenience of occupiers, who would benefit from secure, clean, dry and well-lit facilities that can be easily accessed at all times and in all weather. This design also has benefits in terms of reducing outdoor clutter and enhancing the external appearance of the site.
8. The approved plans also show two communal landscaped areas, one adjacent to the site entrance, which has not been provided and one to the rear of the end townhouse, which now forms an enclosed private garden to that dwelling (No.20). Whilst I did not view the private enclosed garden areas, the whole of the shared external space within the site has been finished with tarmac, which extends up to all buildings and boundaries, leaving no soft surfaces for landscaping. A single narrow planting trough runs along the external side of one garden fence (No.22), but this is filled with gravel and contains no planting. It does not run the length of that building elevation as shown on the approved drawings.
9. The proposal to provide a new communal landscape area in the southwest corner of the site would be acceptable and would assist in enhancing the vast area of bland tarmac and the biodiversity value of the site. However, the provision of a further private enclosed outdoor area for the additional studio flat, which would encroach beyond the flush building elevation that currently provides an open and unobstructed clear view and route between the gated site entrance and the main building entrance, would appear as an incongruous addition.
10. The provision of multiple external buildings and enclosures to facilitate the relocated waste, recycling and cycle storage, would also result in an unattractive cluttered appearance, and would fail to consider the interests and convenience of users that require access to these facilities, particularly in inclement weather and hours of darkness.
11. At the time of my visit, the approved refuse and recycle store appeared to be a locked room that was not in use by occupiers of the development for its intended purpose. Instead, the large, wheeled waste and recycling bins were being stored outside of the building, close to the site entrance, resulting in an unsightly appearance which I have no doubt will only become worse overtime. I did not see inside the approved bicycle store, to see if it was in use for its

intended purpose. However, there was no external bicycle storage provisions within the site.

12. The absence of any meaningful landscaping at the site entrance to soften or screen the adjacent electricity sub-station and brick boundary walls, together with the storage of waste and recycling facilities in this prominent location, results in an unattractive and unwelcoming entrance to the site, and a poor-quality outlook for residents. Using landscape screening and structures with green roofs to obscure the large bins, would not have the same long term environmental benefits or appearance as a properly landscaped space and would also fail to offer the same benefits to users in terms of safe, convenient and accessible internal storage.
13. Paragraph 140 of the National planning policy Framework (the Framework) seeks to ensure that the quality of approved development is not materially diminished as a result of changes. The proposed alternative landscaping in the southwest corner of the site, between the proposed disabled car parking and cycle parking, would compensate for the loss of the originally approved communal area that is now private garden, but would not be sufficient to compensate for the loss of the landscaping area adjacent to the site entrance, that would be dominated by bins and would detract from the overall design quality of the approved scheme.
14. I therefore conclude that the proposed amendments would result in a poor-quality development, which would fail to accord with Policy DH1 of the Royal Greenwich Local Plan Core Strategy with Detailed Policies (2014) (the LP), Policy D3 and D6 of the London Plan (2021), and the Framework. These policies seek amongst other things to ensure that new housing development is of high-quality design with easily accessible integrated waste and recycling storage space. The proposal would also conflict with sections D.3.4 and D.3.6 of the Council's Urban Design Guide Supplementary Planning Document (SPD), which is a material consideration.

Living conditions

15. The windows serving the new ground floor studio flat would all either face west onto the shared access driveway, or directly into the entrance of the main building. Although the submitted Sunlight and Daylight Report concludes that the flat would comply with the relevant BRE Guidance in respect of sunlight and daylight, it has not been demonstrated that an adequate level of daylight and sunlight could be achieved without compromising on privacy. Any measures introduced to enhance privacy within the flat or its proposed area of outdoor space would be likely to obstruct natural light and indeed outlook. The use of one-way glazing would not address the loss of outlook and light created by methods used to enclose the proposed garden or by planting in front of the windows.
16. As the development is car free, with the exception of a proposed disabled car parking space, and access for service vehicles, future occupiers would not be disturbed by any excessive vehicular movements. I also acknowledge that the access is only used by residents of the development, their visitors and by persons undertaking servicing, and that it is not unusual for dwellings to have front windows and doors directly onto public pavements or behind small front gardens. However, in this case all of the windows would be at ground floor level and adjacent to public spaces, offering no privacy in any part of the flat.

17. Whilst introducing a buffer or outdoor space enclosed by railings would provide some defensible space between the windows and passers by, railings above a retaining wall would not provide privacy and any meaningful planting or solid boundary treatment would be likely to block out light and create an oppressive outlook, particularly if that was to be directly in front of or very close to the windows.
18. Given the absence of any inviting landscaped or usable communal space within the development, I also agree that the outdoor space proposed for the new flat, adjacent to the sloping driveway and site entrance, would not be of adequate quality despite complying with the space requirement set out in the London Plan.
19. I therefore conclude that the proposed amendments would result in poor-quality living conditions for future occupiers of the proposed additional studio flat with regard to natural light, privacy, outlook and outdoor space. As such the proposal would fail to accord with Policy H5 of the LP, Policy D6 of the London Plan, and the Framework. These policies seek amongst other things to ensure that residential development achieves a high quality of design with adequate daylight, sunlight, privacy and outdoor space. The proposal would also conflict with section G.2.1 of the Council's Urban Design Guide SPD.

Other Matters

20. It is undisputed that the Council is unable to demonstrate a five-year supply of housing land. I am advised that as of April 2024 the Council's housing land supply was estimated to be 2.8 years. Accordingly, paragraph 11d of the Framework is engaged and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
21. I acknowledge that the development is on previously developed land in a sustainable urban area wherein high density and efficient use of land is encouraged. There would also be some economic benefits linked to the conversion works, albeit given the scale and nature of the development these would be very limited. However, the adverse impacts I have identified above would significantly and demonstrably outweigh the modest benefits of a single small ground floor studio flat.

Conclusion

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

R Bartlett

INSPECTOR