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## Appeal Decision

Site visit made on 1 July 2019

**by R Lankshear BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 September 2019**

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**Appeal Ref: APP/L5810/W/18/3219241**  
**19-22 The Quadrant, Richmond TW9 1BP**

- 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 Kier Property Developments Ltd against the decision of the Council of the London Borough of Richmond-upon-Thames.
  - The application Ref 18/1683/FUL, dated 10 May 2018, was refused by notice dated 30 November 2018.
  - The development proposed is two-storey rear office extension with replacement fenestration at the existing side elevation of the building and relocation of existing plant.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The National Planning Policy Framework (the Framework) was revised in 2019 and this post-dates the Council's refusal notice. I have determined this appeal in accordance with the Framework.

### Main Issue

3. The main issue is the effect of the proposed development upon the living conditions of the occupiers of 4 Little Green with regard to daylight and sunlight.

### Reasons

4. The appeal site is a four-storey building with a large flat-roof two-storey projection to the rear situated centrally within Richmond. The appeal building extends to the rear boundary adjacent to the flatted development of 4 Little Green. Flats within 4 Little Green benefit from a lightwell to the north-eastern corner which abuts the existing two storey projection at the appeal property.
5. The appeal development seeks to add an additional two storeys above the existing two storey flat roof projection to the rear. This would introduce additional built form bringing development at the appeal site, significantly closer to the lightwell serving 4 Little Green. I acknowledge however, the appeal proposal has been stepped in from the boundary with this light well at second and third floor levels.

6. Policy LP8 of the adopted London Borough of Richmond upon Thames Local Plan 2018 (LP) seeks to protect the living conditions of occupiers of existing properties and to ensure that the design and layout of buildings enables good standards of daylight and sunlight to be achieved in existing properties affected by new development. The policy also indicates that *'where existing daylight and sunlight conditions are already substandard, they should be improved where possible'*.
7. Sunlight and daylight reports have been submitted by the appellant, using established Building Research Establishment (BRE) guidance, assessing the effect of the proposal upon daylight and sunlight received to windows within adjoining properties including the flats within 4 Little Green. Such an approach is advocated within the supporting text of policy LP8 of the LP, although this also indicates that mathematical calculation will not always be appropriate and that on-site judgements will often be necessary. The submitted assessments indicate that following the development, windows within neighbouring residential properties, including 4 Little Green, would generally meet and exceed the thresholds identified within the BRE guidance. However, the submitted report indicates that as a result of the development, some openings fronting the lightwell would experience a noticeable impact upon light levels and would, in some instances, fall short of the recommended BRE guidelines, including flats 3, 5 and 7 of 4 Little Green at first, second and third floor levels.
8. A rebuttal to the appellant's sunlight and daylight report was commissioned by occupiers of 4 Little Green. Whilst noting that the appellant has generally applied BRE methodology correctly, it is suggested in the rebuttal report that there are a number of shortcomings with the submitted light assessment including problems with the BRE approach (including the omission of light received from north of due east); incorrect assumptions with regard to room layout (including the splitting of affected rooms at first and second floor level); the nature of use by occupants; and the significance of sunlight impacts. The rebuttal does not however seek to provide any comparable evidence or independent quantitative analysis.
9. The appellant indicates that rooms affected by the development were originally intended to be utilised as bedrooms and that their intended nocturnal use requires a lesser degree of light than other habitable rooms. This view was agreed by the Council in their committee report. Whilst a number of the rooms facing the lightwell do serve bedrooms, it is acknowledged there is some debate over the exact use and layout of rooms with some indicated as being used as sitting rooms/home offices (second and third floor) and another as a craft room (first floor). Nevertheless, it is evident that the rooms impacted by the development could be utilised in a number of ways, including as varied forms of habitable room and not just as bedrooms.
10. Having visited the site, it is evident, that the windows within this lightwell already experience a significant degree of enclosure given their natural orientation; the existing two storey mass of the appeal site and the rear wing of the flatted development of 4 Little Green. Whilst I note the content of the submitted daylight/sunlight reports and the revisions made during the planning application, the details still demonstrate that there would be a degree of harm caused to the occupiers of the aforementioned properties, including noticeable loss of sunlight as indicated within the BRE guidance. Furthermore, the submitted figures indicate that sunlight and daylight into these openings is

already below recommended daylight/sunlight levels (such as first/second floor openings in terms of annual and winter Annual Probable Sunlight Hours).

11. Acknowledging that the identified openings would experience further reductions below existing levels and having regard to the aims of policy LP8 of the LP with respect of ensuring good standards of daylight and sunlight, I am not satisfied that the proposal would lead to good standards of daylight or sunlight and would make an existing substandard situation worse. Noting this, and from my site observations, I do not agree with the appellant's view that the proposal would not have a material impact on the levels of daylight and sunlight enjoyed by occupiers of 4 Little Green.
12. I note that other openings serving habitable accommodation within the flats would not be significantly affected by the appeal development. However, this would not outweigh the harm identified with regard to some of the openings.
13. Furthermore, the submitted details do not provide any objective analysis of the impact upon the garden/yard area within the foot of the lightwell that I understand serves the ground floor flat within 4 Little Green. In the absence of evidence to demonstrate that this would not be significantly affected, I cannot be satisfied that the proposal would not unacceptably impact on this space.
14. For the collective reasons outlined above, I conclude that the appeal development would fail to accord with policy LP8 of the LP, that seeks, amongst other things, that development should protect the amenity and living conditions of occupants of existing neighbouring properties, enabling good standards of daylight and sunlight to be achieved in existing properties affected by new development, and where possible improved. The proposal would worsen, in some instances, an already substandard situation from a sunlight and daylight penetration point of view.

### **Other Matters**

15. The appellant contends that significant weight should be attributed to policies LP40 and LP41 of the LP, policies within the London Plan (2016), emerging London Plan and the Framework noted within the submitted Statement of Common Ground (SOCG) that support economic development of this form. The appellant indicates that these policies support such development on the basis that the site is within a key office area, Richmond is defined as a major town centre and that the borough/ward has already lost significant amounts of office space. They also contend that the delivery of development in town centre locations is difficult without having some impact upon the occupiers of neighbouring properties. I acknowledge the thrust of these policies, accept that the proposal would lead to some economic benefits and note some of the difficulties in bringing forward such development. However, on balance, these are not matters that outweigh the very significant harm that would be caused to the living conditions of occupiers of neighbouring residential properties if the appeal were to be allowed.
16. Having regard to 123(c) of the Framework, as noted by the appellant, I acknowledge that this encourages a flexible approach in the application of policies and guidance relating to daylight and sunlight. However, the provisions of paragraph 123 of the Framework refer to situations where there is an existing or anticipated shortage of land for housing needs and I do not consider

this to be directly relevant to the appeal proposal. As such, I attribute this little weight.

17. The appellant has referred to other appeals within the SOCG document where Inspectors have considered daylight/sunlight matters. Whilst some detail has been provided by the appellant, I am not familiar with the site specifics of each individual case or their relationship to the site. In any event, I have determined the appeal on its individual planning merits.
18. Reference is also made within the SOCG to the opinions of Councillors involved in the determination of the original planning application although this has little bearing on the planning merits and consideration of this appeal.
19. None of the other matters raised alter or outweigh my conclusions on the main issue.

### **Conclusion**

20. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*Robert Lankshear*

INSPECTOR