



## Appeal Decision

Site visit made on 19 September 2023

**by K L Robbie BA (Hons) DipTP MTP MRTPI**

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

**Decision date: 23 October 2023**

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**Appeal Ref: APP/L5810/W/22/3312890**

**Land to the rear of 194 Upper Richmond Road, London SW14 8AN**

- 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 Burlington Property Group against the decision of the Council of the London Borough of Richmond Upon Thames.
  - The application Ref 21/3450/FUL, dated 4 October 2021, was refused by notice dated 29 July 2022.
  - The development proposed is the demolition of existing garages (Nos 1 to 6) and construction of two x two-bed residential units with associated works.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The site visit was arranged as an 'access required site visit'. However, neither the appellant nor their agent was present upon my arrival at the site during the pre-arranged period. I was subsequently able to agree with the appellant's agent that access to the site was possible and confirmed that I could carry out the site visit on an unaccompanied basis. I conducted the site visit accordingly.

### Main Issues

3. The main issues are:
  - The effect of the proposed development on the living conditions of the occupiers of 7 Chestnut Avenue and 190A Upper Richmond Road West with particular regard to outlook and light;
  - Whether the proposed development would provide adequate living conditions for future occupiers with particular regard to the provision of external amenity space, outlook and light; and
  - Whether the proposed development makes adequate provision for affordable housing.

### Reasons

4. The appeal site is currently occupied by a row of garages within a yard to the rear of commercial premises on Upper Richmond Road West. It is accessed via a narrow lane off Thornton Road. At the time of my site visit the wider yard area contained several cars, some of which were covered, and others appeared to be in disrepair, other items including traffic cones and car parts were stored amongst the cars.

5. The appeal proposal involves the demolition of several of the garages and their replacement with a pair of two bedroomed dwellings, the lower floors of which would be partly below ground level.

*Living Conditions – 7 Chestnut Avenue*

6. The proposed dwellings would be close to the boundary with 7 Chestnut Avenue (No.7) where a window with a southerly aspect faces the appeal site. Although the existing garages on the appeal site are located on this boundary the proposal would be much higher and deeper than the garages and more permanent than the existing boundary fence and vegetation currently on the boundary. As a result, the outlook from the window of this property would be restricted.
7. It has been indicated to me that the affected window is a secondary opening, although I have no substantive evidence to support this. A Daylight and Sunlight Assessment<sup>1</sup> indicates that the effect on light to this window would not be severe. Nevertheless, in combination with the effect on outlook for occupiers of that room, the impact of the proposal would be unacceptable.
8. Although the proposal has been designed so that the lower floor is partially below ground level and the side elevation chamfered to reduce the overall height of the building, I have no evidence before me to suggest the likely extent of shadow cast by the proposal. Nevertheless, given the orientation of No. 7's garden to the appeal proposal the effect is likely to be significant.
9. Consequently, I conclude that the proposal would have a harmful effect on the living conditions of the occupiers of 7 Chestnut Avenue with respect to outlook and light. This would conflict with Policies LP1, LP8 and LP39 of the Richmond upon Thames Local Plan 2018 (RTLP) which seek to ensure that development relates well to its context and protects the amenity and living conditions for occupants of adjoining and neighbouring properties. The proposal would also fail to follow guidance on design and residential amenity set out in the Council's Residential Development Standards 2010 and Small and Medium Housing Sites 2006, Design Quality 2006 Supplementary Planning Documents (SPDs).

*Living Conditions – 190A Upper Richmond Road West*

10. The rear elevation of one of the proposed dwellings would form the side garden boundary of 190A Upper Richmond Road West (No. 190A). Although this section of the rear elevation has been chamfered to reduce its height on the boundary, the overall height and bulk of the proposal would still be much greater than the existing boundary wall. I have not been presented with any substantive evidence that the proposal would not cause overshadowing to No. 190A's yard. Although the yard area is small, this does not diminish its value to the occupiers of this property.
11. As a result, the amenity that the occupiers of that property currently enjoy from their yard would be unacceptably diminished. I have not been presented with any substantive evidence which would lead me to conclude otherwise.
12. Thus, the proposal would have harmful effect on the living conditions of the occupiers of 190A Upper Richmond Road West with respect to outlook. The proposal would therefore conflict with RTLP policies LP1, LP8 and LP39, the

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<sup>1</sup> Daylight/Sunlight and Overshadowing Assessment Ref:21-8226 Rev B Syntegra Consulting October 2021

aims of which are set out above, and would fail to follow guidance contained in the SPDs with regard to design and residential amenity.

*Living Conditions – Future Occupiers*

13. Both bedrooms in the proposed dwellings would be located on the lower ground floor and would be below ground level. The outlook would be limited to windows which would be located just above ground level. The outlook from the master bedrooms in particular would be likely to be of cars manoeuvring and comings and goings not connected with the development, at eye level and directly in front of the windows. The appellant indicates that the use of the wider area for other uses would continue and whilst parked vehicles in this area may be transient, their presence close to the front elevation of the dwellings, particularly the right-hand side of the pair, would be unduly oppressive for occupiers to a degree which would not be appropriate for residential occupation in this location. Whilst an Internal Daylight Assessment<sup>2</sup> indicates that adequate daylight would be received by all rooms within the dwellings the outlook from the bedrooms would nevertheless be poor and consequently the internal living conditions of occupiers would be inadequate.
14. External amenity spaces would be provided for both dwellings in the form of small, enclosed courtyards to the rear. Whilst the dwellings are not intended for family occupation, the courtyards would be much smaller than the majority of private amenity spaces close by. Although they may receive some morning and afternoon sun, they would be heavily enclosed on all four sides and therefore are likely to be in shade for considerable parts of the day.
15. The height and proximity of the boundary treatments would result in a sense of enclosure which would be unduly oppressive and although the appellant states that the courtyards would be planted it would be unreasonable to control this by planning condition. The result would therefore be a poor outlook for future occupiers. As a result, overall, they would not provide pleasant spaces commensurate with dwellings of this size. Whilst I recognise that there is green space close by which could be utilised by occupiers of the dwellings for some recreational purposes, that is not a reason not to provide adequate private amenity space as part of the development.
16. Although, based on the evidence before me, the living conditions of future occupiers with regard to light would be acceptable, their living conditions with respect to the provision of external amenity space and outlook would be inadequate. Consequently, in this regard the proposal conflicts with RTLP policies LP1 and LP8 and Policy D6 of London Plan which together seek to ensure that development is of a high quality and provides layouts which are fit for purpose, with adequate daylight and sunlight appropriate to their context. The proposed development would also fail to follow the guidance set out in the Council's Residential Development Standards (2010) Supplementary Planning Document which states, amongst other things, that the aspect, useability and sense of enclosure will all be taken into account in assessing whether private gardens provide sufficiently good living conditions. The proposal would also fail to comply with the aims of the Framework in relation to adequate living conditions for future occupiers.

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<sup>2</sup> Internal Daylight Assessment Ref:21-8226 Rev A Syntegra Consulting October 2021

### *Affordable Housing*

17. The appeal is accompanied by a draft Unilateral Undertaking (UU) made under Section 106 of the Town and Country Planning Act 1990 (the Act) and sets out contribution towards affordable housing in line with the Council's relevant policies and a restriction on future occupiers applying for a parking permit. However, the UU is unsigned and undated. *The Procedural Guide – Planning appeals – England* sets out the expectations for appellants for the submission of planning obligations during the appeal process. Therefore, as it is not properly executed, I cannot take it in to consideration. Nevertheless, as I intend to dismiss the appeal for other reasons, I have not pursued this matter further with the main parties.

### **Other Matters**

18. Whilst the Council did not refuse the application in respect of principle, design or noise, and the proposal would not prejudice commercial activity in the area, the lack of harm on these are neutral factors which do not outweigh the harm I have found on the main issues.
19. I acknowledge that the proposal would improve the appearance of an unkempt site and the garages may be underused. The site is not located in a Conservation Area and the buildings are not listed, nor is it at risk of flooding. It may also be the case that small sites can make an important contribution to housing delivery, and this would be a sustainable location with easy access to services and facilities. Furthermore, the development would utilise sustainable materials and include sustainable drainage systems. However, I have very limited details before me of the proposed construction methods and materials.
20. These benefits carry little weight and do not outweigh the harm I have found. Moreover, I have set out why I do not consider that the planning obligation could be relied upon to contribute towards affordable housing locally. The scale of the development the benefits, and associated weight is limited and should not be at the expense of ensuring all development is appropriate, including ensuring adequate living conditions for existing and future occupiers.

### **Conclusion**

21. For the reasons given, I have found that the proposal conflicts with the development plan read as a whole. No material considerations have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. The appeal is therefore dismissed.

*K L Robbie*

INSPECTOR