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# Appeal Decision

Site visit made on 13 July 2023

**by P Storey BA (Hons) DipTP MRTPI**

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

**Decision date: 26<sup>th</sup> October 2023**

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**Appeal Ref: APP/H5960/W/22/3310885**

**1083-1085 Garratt Lane, Wandsworth, London SW17 0LN**

- 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 Danish Hanif of Drum Investments Limited against the decision of the Council of the London Borough of Wandsworth.
  - The application Ref 2022/0815, dated 23 February 2022, was refused by notice dated 11 May 2022.
  - The development proposed is described as: "Alterations including erection of three storey extension and dormer roof extension to the sides of existing building in connection with alterations to one existing ground floor and one existing first floor flats and creation of additional 1 x 2-bedroom and 1 x 1 bedroom flats with associated cycle and refuse storage."
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Wandsworth Local Plan 2023-2038 (the LP) was adopted following the Council's decision. The Council has reported the policies it considers to be relevant and both main parties have been able to consider any implications arising from the change to the development plan during the appeal process.

## Main Issues

3. The main issues are the effect of the proposed development on:
  - the living conditions of the occupiers of neighbouring properties, with specific regard to daylight and outlook;
  - the living conditions of prospective occupiers in respect of the provision of outdoor amenity space and, with specific regard to the bedroom of Flat 3 on the second floor, light and outlook; and
  - the character and appearance of the site and surrounding area.

## Reasons

### *Living conditions of neighbouring occupiers*

4. The planning application was accompanied by a Daylight and Sunlight Report, dated 2 December 2021 (the DSR). The DSR was prepared to accord with 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice' – 2011, prepared by the Building Research Establishment (the BRE Guide). It is of note that the BRE Guide was revised following the preparation of the DSR. However,

the main parties do not dispute that the DSR and BRE Guide remain relevant considerations for the purposes of this scheme.

5. The BRE Guide sets out that it should be used flexibly and not be interpreted as planning policy. Similarly, paragraph 125 of the National Planning Policy Framework advocates a flexible approach in the application of policies and guidance relating to daylight and sunlight. In that regard, paragraph 14.11 of the LP, which forms part of the supporting text to Policy LP2, explains that the Council will have regard to the most recent BRE guidance, but that on-site judgement may be necessary.
6. The DSR provides the results of Vertical Sky Component (VSC) and Daylight Distribution (DD) assessments in relation to the first and second floor windows at Nos 40, 42, 44, 46 and 48 Tooting High Street. It also assesses a window at No 1081 Garratt Lane.
7. The addresses assessed on Tooting High Street are contained within terraced buildings of up to 4 storeys in height featuring commercial uses at ground floor. Although I cannot be certain what rooms are served by the upper floor windows, based on the submitted evidence, it is highly probable that a significant portion of the affected windows serve living accommodation.
8. The Council's concerns regarding these properties relate only to the first-floor windows. With the exception of No 40 Tooting High Street, these all fail to meet the BRE Guide in terms of both retaining a VSC value of at least 27%, and retaining at least 0.8 times the former VSC value. In this case, the affected windows are not especially large and do not form part of the development. It would therefore not be feasible to include mitigation works to the neighbouring properties as part of the proposed development. As such, even considering the flexible approach advocated by the BRE Guide, given the significant shortfalls against its figures and the lack of scope for mitigation, I am not persuaded that the proposals would provide acceptable living conditions for the occupiers of these properties.
9. The Council's officer report cites a lack of clarity in the DSR in specifying which window on No 1081 Garratt Lane has been assessed, and therefore a failure to demonstrate that the effects on daylight and sunlight on this property would be acceptable. The appellant's statement of case clarifies the location of the window as being the first-floor window within a rear extension that faces directly towards the Castle Public House's garden. The DSR concludes that this window complies with the relevant VSC tests. Based on the evidence submitted, I do not find harm to arise in relation to this window.
10. The Council's statement of case raises concern with the two side-facing windows at No 1081 Garratt Lane, neither of which have been assessed by the DSR. The appellant notes that one of these windows is at third floor level, almost at ridge height, and is believed to serve a bathroom. The other is described as a secondary window at first floor level. I have no evidence to corroborate that the internal layouts are as described, and can therefore afford only limited weight to the appellant's assertion regarding the rooms they serve. It also appeared, from my observations during my visit, that the window described as first floor instead served the second floor.
11. Because the internal layout of No 1081 is not known, I am not convinced that the effects on these windows have been adequately assessed. This is of

- particular concern in relation to No 1081's third floor window, which would sit very close to a tall, flat roofed part of the proposed development. It therefore seems highly probable that the proposal would have a significant effect on the daylight afforded to this window. The appellant contends that it serves a bathroom, but no substantive evidence to corroborate this has been provided.
12. The Council considers that because the layouts of the neighbouring properties are not known, the figures used in the DD assessment are unreliable. Nevertheless, the DSR indicates that there would be shortfalls against the relevant standards in respect of 4 of the 12 rooms assessed, which further indicates that there would be harm to the living conditions of Nos 42, 44, 46 and 48 Tooting High Street.
  13. In addition, the DSR does not address the effects of the proposal on the existing dwellings in the host property. This is a significant shortcoming which further weighs against the proposals.
  14. The appellant considers that the site's position in a highly urban location should lead to a more flexible interpretation of the BRE Guide standards. However, even if I were to conclude that the site is a highly urban location, the shortfalls against the BRE Guide values in respect of the properties on Tooting High Street are so significant that I conclude the impacts would be unacceptable.
  15. Turning to the matter of outlook, the Council's concerns relate to the aforementioned side-facing windows of No 1081 Garratt Lane.
  16. Due to its proximity to the proposed development, outlook from the third-floor window would appear to be significantly diminished. Because no substantive evidence has been provided to support the appellant's claims that this serves a bathroom, there would be a harmful effect on outlook from this window.
  17. The second-floor window forms part of the same side elevation as the third-floor window, but is set further to the rear of the building of No 1081. As such, it would not directly face the tallest part of the proposed development. The part of the building directly opposite this window would appear to extend no closer than it currently does. Although an additional storey would be added, the height of this part of the building would not increase significantly. Therefore, there would not be a significant adverse effect on outlook from the window opposite.
  18. To conclude on this matter, the proposals would adversely affect outlook from the third-floor window at No 1081 Garratt Lane and fail to provide acceptable daylight to Nos 42, 44, 46 and 48 Tooting High Street. It would therefore harm the living conditions of the occupiers of neighbouring properties and conflict with Policies LP1 and LP2 of the LP, which seek, among other objectives, to ensure the scale, massing and appearance of development provides a high-quality, sustainable design and layout, and that development proposals do not adversely impact the amenity of existing and future occupiers. It would also conflict with the Wandsworth Local Plan Supplementary Planning Document – Housing – Adopted November 2016 (the SPD), which has similar aims.

*Living conditions of prospective occupiers*

19. The site includes a passageway to the side of the building that provides access to the existing dwellings. It is hard surfaced and does not appear to be laid out or used for amenity purposes. The scheme would infill part of the passageway

towards the front of the site. The rear part would provide a communal amenity area while retaining access to the dwellings, but no private outdoor amenity space is proposed for any of the dwellings.

20. LP Policy LP27 sets out that all new residential development, including new-build dwellings, conversions and change-of-use schemes where new dwellings are created, will be required to meet certain standards, including providing private outside space. As no private outside space would be provided, the proposed dwellings would feature sub-standard living conditions for prospective occupiers.
21. The proposed communal amenity area would be very narrow and would offer limited practical space for recreational purposes. Furthermore, it would be sited very close to the ground floor windows of adjacent units, and any recreational use of this area could have a significant adverse effect on the living conditions of occupiers.
22. The appellant contends that prospective occupiers of the units would, in all likelihood, be highly mobile, and if not electing to use the communal courtyard they would be able to travel to the numerous nearby parks and commons. However, this is a generic assumption that does not take account of the individual needs of potential occupiers or any difficulties with mobility. I note the existing arrangement does not provide formalised amenity space. I also acknowledge that the proposal seeks to improve upon the quality of the existing outside space through the provision of an access gate and a dedicated bin store in a separate location to the communal amenity area. However, these matters do not overcome the lack of private outside space.
23. Turning to the matter of light and outlook, the Council's concerns relate to the bedroom of the 1-bedroom flat on the second floor, labelled on the plans as Flat 3. This would be served by a single window, which would be small, obscure glazed, positioned at high level and close to the rear of the properties along Tooting High Street. Accordingly, outlook would be greatly limited. Whilst the DSR does not explicitly address the provision of daylight and sunlight for the proposed development, based on the characteristics of the window and its proximity to the adjacent building, levels of daylight and sunlight would also be limited. Cumulatively, these factors would result in compromised living conditions for prospective occupiers of Flat 3.
24. I acknowledge that high-level windows are proposed to protect the privacy of neighbouring occupiers. However, this does not justify inadequate living conditions for the occupiers of Flat 3.
25. For the above reasons, the proposed development would fail to provide an acceptable standard of outdoor amenity space, and light and outlook for Flat 3 on the second floor, which would harm the living conditions of prospective occupiers and be contrary to Policies LP1, LP2 and LP27 of the LP. Together these policies seek, among other objectives, that development does not adversely impact the amenity of existing and future occupiers, that habitable rooms are provided with acceptable levels of daylight and sunlight, and for residential development to provide appropriate communal amenity space.

### *Character and appearance*

26. The appeal site is a two-storey brick building with a gable-fronted roof. A narrow single-storey flat-roofed building adjoins the right-hand side of the appeal property when viewed from the street, with signage identifying it as a solicitors. In turn, this adjoins a striking 4-storey brick building that occupies the corner between Garratt Lane and Tooting High Street. In common with the appeal property, this building incorporates light coloured rendered detailing to the brickwork. To the left of the appeal property, the neighbouring buildings have the appearance of traditional 3-storey townhouses. The closest units have ground floor flat-roofed projections to the front, accommodating commercial uses. Excepting the discrete solicitors building, the current building appears noticeably lower than the neighbouring buildings to either side.
27. The location is near to a busy road junction that is characterised primarily by the presence of Tooting Broadway underground station on its southeast corner. Ground floor uses in the area are predominantly commercial, with a mix of first floor uses including residential and office.
28. The architectural appearance and scale of buildings varies in the vicinity of the road junction, ranging from the 3-to-4-storey traditional terraced buildings on the northwest side of the junction, 3-storey traditional terraced buildings on the northeast side of the junction that arc around the corner, and the lower 2-storey yet still striking art deco façade of the underground station on the southeast corner of the junction. Directly opposite the appeal site on the southwest corner of the junction is a more modern mid-20<sup>th</sup> century building that sits squarely against the junction.
29. Whilst not being locally listed or in a conservation area, the appeal site is positioned between buildings of inherently traditional appearance. Although there is some variety in their appearance, the appeal site and its neighbouring properties are of similar period design. Together, they make a positive contribution to the streetscape.
30. Whilst the proposed development would incorporate some design elements from the existing building and neighbouring properties, it would also include elements with a distinctly disparate appearance, such as the box window to the second-floor front elevation and the zinc-clad dormer feature to the east elevation. Together, the overall effect would be overly dominant and uncharacteristic. Due to its appearance and detailing, the building would sit uncomfortably against the neighbouring traditional buildings and fail to reflect the character of the surrounding area.
31. I acknowledge that the design approach seeks to create a building that is purposefully bold and contemporary. However, even acknowledging the use of some characteristic materials found in the existing building, the proposed development would stand out as so significantly different to its surroundings that it would jar uncomfortably and disrupt the current harmony that exists in the streetscape. The overall effect would be harmful to the character and appearance of the area.
32. Notwithstanding my conclusions on living conditions, given the relationship with the buildings to either side, the general scale of the development would be broadly compatible with its surroundings. Although an element of the development would extend close to the ridge height of the adjacent building at

No 1081 Garratt Lane, it would not exceed this, and it would be set back from the main frontage of the building to be suitably proportionate. I also acknowledge that some of the less attractive features to the rear of neighbouring buildings would be screened by the proposed development. However, these factors would not overcome the issues identified.

33. For the above reasons, the proposed development would be harmful to the character and appearance of the site and surrounding area. It would therefore conflict with Policies LP1, LP2 and LP5 of the LP, which together seek, among other objectives, to ensure the scale, massing and appearance of development provides a high-quality, sustainable design and layout, that development demonstrates an appreciation and understanding of vernacular and local character, and that development respects and/or complements form, setting, period and detailing. It would also conflict with the SPD, which has similar aims.

### **Other Matters**

34. The proposed development would contribute to the supply of housing in a sustainable location, close to public transport links and outdoor spaces for recreation. However, whilst I acknowledge these factors to be benefits, they hold limited weight in the overall balance and do not outweigh the harm I have previously identified.

### **Conclusion**

35. The proposed development would conflict with the development plan as a whole and there are no material considerations that would lead me to a decision other than in accordance with the development plan. Accordingly, for the above reasons, the appeal should be dismissed.

*P Storey*

INSPECTOR