



Appeal Decision

Site visit made on 9 October 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2023

Appeal Ref: APP/H5960/W/23/3319233

51-53 Longley Road, London SW17 9LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Amjid Ali (Prime Group) against the decision of London Borough of Wandsworth.
 - The application Ref 2021/5782, dated 14 September 2021, was refused by notice dated 14 October 2022.
 - The development proposed is described as, *'the erection to the rear of the communal rear garden an outbuilding comprising of 2 x single-storey elements at ground floor level with a larger space below ground at basement level'*.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's decision notice refers to policies contained within the Wandsworth Development Management Policies Document (2016) as well as the Wandsworth Publication Version Local Plan (2022). The Wandsworth Local Plan 2023-2038 (WLP) was adopted in July 2023 and has therefore superseded the policies contained within the Wandsworth Development Management Policies Document (2016). I have been provided with a copy of the relevant policies of the adopted Local Plan and have had due regard to this.

Main Issues

3. The main issues of the appeal are;
 - The effect of the proposed development on the living conditions of existing occupiers of the host building and neighbouring properties in relation to noise and disturbance; and
 - Whether the proposed development would result in the loss of rear residential garden space including opportunities to use the space for amenity purposes.

Reasons

Living conditions

4. The appeal site relates to a pair of large semi-detached buildings within a residential setting. Each building contains 10 self-contained flats and forms part of a row of other semi-detached residential properties which front onto Longley Road. The properties along this row including the appeal site have car parking/amenity areas to the front and long narrow gardens to the rear.

5. The rear garden areas associated with the two properties effectively form one larger communal rear garden area although much of this is fenced off with a locked gate to the rear and appeared to be underused and covered with vegetation at the time of my site visit. A smaller area closest to the rear elevation appeared to be the main amenity space used by the existing occupiers.
6. The proposed development amongst other works, seeks to utilise the space which is currently fenced off to the rearmost part of the garden for the erection of 2 x single storey outbuildings with a single basement level below. This would cover a large area and result in sizable buildings that would be used to provide gym space, home offices and storage spaces for the existing residents of the flatted development in addition to a lower garden area.
7. Potential noise sources associated with the use of the outbuilding would therefore include amongst others, activities associated with the various uses of the building which would be heightened in the summer months or warmer weather when windows/doors particularly at ground floor level may be open to provide a more comfortable environment, the external comings and goings of residents using the outbuilding and people conversing both inside and outside of the building including the use of the lower garden area.
8. Although the proposed development would serve existing residents that are already onsite, the outbuilding would be completely detached from the host property and would involve more intense activity to that of the existing flats which given the overall size could accommodate a high number of people at any one-time. This has the potential to cause an unacceptable level of noise and disturbance for existing occupiers of the host property and its nearby neighbours. The location to the rearmost part of the garden would also result in increased comings and goings over and above that of the existing which also has the potential to cause unacceptable levels of noise and disturbance particularly taking into account the site context which is wholly residential where a number of properties including their windows are located in relatively close proximity of the site including the wider external space along with their associated boundaries and amenity areas. Residents can access some of the outside rear amenity space at present. However, its use is likely to involve less people at any one time and the frequency back and forth would likely be lower than that associated with a detached outbuilding providing a number of different ancillary uses. This would also be the case even if residents had access to this wider external area.
9. Whilst a condition could be imposed to limit the opening hours of the outbuilding to that proposed, the intensity of the use would still be exacerbated to a level over and above that ordinarily expected in a residential area particularly at times early in the morning and later into the evenings, when occupiers of the host property and neighbouring properties would reasonably expect a quieter living environment.
10. I note the concerns raised by the Council and third parties in relation to further rental of the outbuildings on a more commercial basis. However, the appellant has confirmed that the proposed development is to be for the ancillary and sole use of existing residents of the flatted development and that access from the external side passage would also be controlled with key fobs to restrict non-residents along with the installation of security cameras. Although the

development is somewhat larger and more excessive than what would be expected for an ancillary private residential outbuilding, I have no compelling case to suggest that it would be used on a commercial basis even taking into account the proposed layout configuration. If I were to allow the appeal, I could have attached a condition to ensure it was for the use of the residents.

11. Notwithstanding and although ancillary to existing residents, the proposed development would still serve 20 flats and even if all flats did not utilise the added amenity space which is likely to be the case, it could still accommodate a high number of people using the outbuilding at any one time which would cause unacceptable levels of noise and disturbance for existing occupiers of the host property and those surrounding the site. A condition restricting the use would not be sufficient to mitigate against this as it would still lead to a significant intensification of use and increased comings and goings.
12. For the above reasons, I conclude that the proposed development would harm the living conditions of existing occupiers of the host building and neighbouring properties in relation to noise and disturbance. It would therefore conflict with Policies LP1 and LP2 of the WLP which together, amongst other matters, explains that development proposals must not adversely impact the amenity of existing and future occupiers or that of neighbouring properties.
13. The decision notice cites Policy LP43 of the WLP which relates to town centres uses located outside of the borough's Town and Local Centres or the Important Local Parades. However, taking into account my findings above in relation to commercial matters then I do not find this policy to be relevant in this particular case.

Residential garden space

14. Whilst there may be a general policy presumption against development on residential gardens, based on the evidence in front of me, this appears to be more aligned to additional housing which this appeal is not. Further, the Council confirm that there are no local policy restrictions on the erection of ancillary outbuildings to be used in conjunction with the enjoyment of the existing green space. To this end, outbuildings ancillary to the host property are often found within such residential settings albeit that they are of a smaller scale to that serving 20 flats.
15. As referred to above, a smaller section of the garden appears to be currently used by the existing occupiers with the remaining larger section fenced off and covered with vegetation. The proposed development would open up the extended space adding to the existing amenity provision for the flats providing gym space, home offices and storage spaces in addition to a lower garden area. This would, subject to management arrangements, provide residents with the opportunity to use the space for amenity purposes should they wish to.
16. The larger extent of the garden in its current form appears underutilised and whilst this could be resolved through appropriate maintenance and landscape management, the proposed development would provide opportunities to use this space for amenity purposes associated with the flatted development and would be more accessible/useable than what is currently the case. Notwithstanding, the section closest to the rear elevation of the property would be retained and indeed extended should residents wish to continue to utilise this space as is currently the case.

17. It is undisputed that previous planning permissions at the site under references 2005/2489 and 2007/1660 allowed for demolition of rear extensions and outbuildings, erection of side and rear extensions (five-storeys including basement), excavation of basement, front dormer roof extension, and conversion to provide 10 flats with 3 car parking spaces. Based on the evidence provided, condition 11 relates to the rear garden provision requiring this to be retained in perpetuity for the use of all occupiers of the flats to ensure the proposed units benefit from adequate amenity space.
18. Although the wider area of external amenity space would be reduced, I consider that the amount would still be adequate for the users of the flats with additional provision provided for occupiers of the flats should they wish to use this and subject to the overall management associated with this. The claims made regarding internal configuration in relation to the number of flats would not change my findings on this as it is unlikely that all flats would utilise the added amenity space as referred to above but could still access sufficient amenity space that is free from buildings and structures to the rear of the property.
19. For the above reasons, I conclude that the proposed development would not result in the loss of rear residential garden space including opportunities to use the space for amenity purposes. It would therefore comply with Policy LP25 of the WLP which seeks to protect the existing housing stock. For the same reasons, the proposed development would also comply with guidance contained within the Wandsworth Local Plan Supplementary Planning Document – Housing, 2016.

Other Matters

20. The Council refer to matters relating to character and appearance within their officer's report and statement of case including referencing two previous appeal decisions¹ although this did not specifically form part of the reasoning for refusal. Notwithstanding, these previous appeals related to additional residential development which is different to the scheme before me. One of which was said to occupy the majority of the garden, leaving a much-reduced open area and would appear cramped. Whilst the other scheme related to the land in question, it was said to have a significant built footprint and would be clearly visible from the rear of neighbouring properties appearing as an unduly large and alien insertion that would draw the eye.
21. The appeal scheme before me would result in sizable buildings but would be ancillary development to the main property and would retain a large proportion of the rear garden space free of any built structures. Additionally, a proportion of the building would be confined below ground level and the proposed single-storey structures above ground level have been designed to be of limited visual impact within the surrounding rear garden setting. The pitched green roofs would be of a low height when viewed from neighbouring rear gardens. The overall nature and visual impact of the referred to schemes are therefore not

¹ APP/H5960/W/19/3241630 and APP/H5960/W/19/3242346.

directly comparable to the appeal before me and thus would have different effects on the overall character and appearance of the area.

22. The proposed development would provide a functional/useable space providing flexibility for existing residents and families in terms of live-work accommodation including enhancement of the amenity space and thus enhancing the overall quality of life. I am aware of the struggles in terms of existing housing stock and note that the development would increase the versatility of the properties including wider housing stock more generally, reflecting changes to the modern way of living in the post-pandemic world including the need/demand for internet. The building would also have sedum green roofs focussing on the use of plant species known to be present in the local area in an attempt to achieve biodiversity gain and would increase security at the site through the installation of CCTV. However, this would not be sufficient to outweigh the harm identified.
23. Claims have been made regarding other similar facilities provided in large residential blocks elsewhere in the Capital and it is claimed to be typical of what can be found in the basement of a new-built flatted scheme. I do not have any further information relating to such similar provision elsewhere to be able to comment further and such provision located at basement level within a new development is completely different to the appeal before me which would be completely detached from the host property serving a large number of flats who would need to travel externally between the two. In any event, other similar facilities elsewhere would not be sufficient to justify harmful development in this case.
24. I appreciate that there is a level of support/demand for the proposed development and existing residents are in favour. I also do not dispute the helpfulness of the owner and note that pre-application advice was undertaken along with changes made to the scheme following discussions with the case officer. This would not however overcome the harm to neighbours that I have identified.

Planning Balance

25. The scheme would unacceptably harm the living conditions of existing occupiers of the host building and neighbouring properties in relation to noise and disturbance. It would therefore conflict with the development plan when considered as a whole. Although the proposal would not result in the loss of rear residential garden space including opportunities to use the space for amenity purposes, the absence of harm is a neutral factor in the overall balance. There are no material considerations, either individually or in combination, that outweighs the identified harm and associated plan conflict.

Conclusion

26. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR