



Appeal Decisions

Site visit made on 30 April 2025

by Mr James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 28 May 2025

Appeal A Ref: APP/H5960/C/24/3340177

Creative House, 124 Prince of Wales Drive, London SW8 4BJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Ebonair Investments SA against an enforcement notice issued by Wandsworth Borough Council.
- The enforcement notice was issued on 7 February 2024.
- The breach of planning control alleged in the notice is a failure to comply with condition 1 imposed on planning permission ref 2019/2097 granted on 15 March 2021.
- The development to which the permission relates is *"the retention of a single-storey building to be used as a café (Class A3) for a temporary period of up to two years (retrospective)"*.
- The condition in question is no 1 which states: *"This permission is for a limited period until 31 March 2023 and the use shall stop and the building shall be removed, unless a further application has been approved by the Local Planning Authority"*.
- The notice alleges that the condition has not been complied with as the building has remained in situ beyond the limitation of the temporary condition.
- The requirements of the notice are to:
 1. Remove the single storey building from the car park of the Property; and
 2. Remove from the Property all debris arising from compliance with step 1.
- The period for compliance with the requirements is four months after the date on which the notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Appeal B Ref: APP/H5960/W/24/3340176

Creative House, 124 Prince of Wales Drive, London SW8 4BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Luxap Ltd against the decision of Wandsworth Borough Council.
- The application Ref is 2023/1609.
- The development is *"Retention of a single-storey building to be used as an office (class E) for a temporary period of up to two years (retrospective)"*.

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. The appeal site comprises a seven-storey residential property known as Creative House, which is understood to be used as serviced accommodation. There is a single storey building within the car park to Creative House which is the subject of these appeals. The appeal building previously benefited from a planning permission for use as a café, but this permission was temporary and required the use to cease and the building to be removed by 31 March 2023. The building has remained in situ beyond this date, and is now understood to be used as an office.

2. The Council has issued an enforcement notice which now requires the building to be removed. Appeal A concerns the appeal against this enforcement notice. Appeal B concerns a separate retrospective planning application which was refused by the Council, for retention of the same building. The issues are similar in respect of both appeals, and I have therefore dealt with them together in the same decision notice.
3. For the purposes of Appeal B, I have used the Council's description of development, as this more accurately describes the scheme.

Main Issues

4. The main issues in respect of both appeals are:
 - the effect of the development on the character and appearance of the area, including whether it preserves or enhances the Battersea Park Conservation Area;
 - whether the development makes adequate provision for flood risk;
 - whether the principle of development is acceptable;
 - the effect of the development on neighbouring amenity, with particular regard to outlook, noise, pollution and odour;
 - whether the development makes adequate provision for waste management; and
 - whether the development is acceptable with regards to parking and other transport matters.

Reasons

Character and Appearance

5. The appeal site is situated within the junction of Prince of Wales Drive and Battersea Park Road. The area is mixed in character and includes a wide range of residential, commercial and educational buildings. Many of the surrounding buildings, including those within the Cloisters Business Centre, are constructed of traditional brickwork, which contributes positively to the character of the area.
6. The appeal site is also located near to Battersea Park, and falls within the Battersea Park Conservation Area (CA). Part of the CA's significance derives from the formal relationship between the park and the urban development surrounding it. This means the buildings surrounding the park, which include the appeal building, make an important contribution to the CA's significance.
7. The appeal building is a modest single-storey structure with a flat roof. The building incorporates a mix of materials, including timber and glazing along its frontage and a grey façade along its rear elevation. It also includes sliding doors along its frontage, with a canopy over its entrance. Overall, the design quality of the building is poor and the mix of materials contrasts starkly with the more traditional appearance of neighbouring properties.
8. Whilst the building is largely screened from public view, it abuts the shared boundary with the Cloisters Business Centre to the west. The building sits

noticeably higher than the boundary fence to this property, which means it is experienced keenly from within these grounds. From here, the blank rear façade of the appeal building feels oppressive, and it jars uncomfortably with the traditional brickwork which is prevalent throughout the business centre site. Consequently, the appeal building undermines the attractive quality of this neighbouring property, and more generally, the attractive character and appearance of the wider area. This is to the detriment of the CA, given the importance of the buildings surrounding Battersea Park to its overall significance.

9. Overall, the development therefore harms the character and appearance of the area, and fails to preserve or enhance the character and appearance of the CA. In turn, the development conflicts with Policies LP1 and LP2 of the Wandsworth Local Plan 2023 – 2038 (Local Plan). Together, these seek to ensure development achieves a high-quality design which relates positively to prevailing local character, and which safeguards the visual amenity of adjoining sites. Notably this includes a requirement to ensure finishing materials and façade design demonstrate an appreciation and understanding of vernacular, local character and architectural precedents in the area. The development also conflicts with Policy LP3 of the Local Plan, which seeks to ensure development preserves and enhances the significance and appearance of the Council's heritage assets, which in this instance, includes the CA.
10. In reaching this conclusion, I have had special regard to the desirability of preserving or enhancing the character or appearance of the CA, in accordance with my statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Flood Risk

11. Policy LP12 of the Local Plan says all planning applications will need to clearly demonstrate that a proposal avoids or reduces contributing to all sources of flooding, including fluvial, tidal, surface water, groundwater and flooding from sewers.
12. The appeal site is said to be located within Flood Zones 2 and 3A. In both flood zones, Policy LP12 is clear that a flood risk assessment would be needed for the development proposed. Where a flood risk assessment is required, Policy LP12 says this must demonstrate the proposal does not increase surface water, fluvial and/or tidal flood risk. The policy also says finished floor levels in these zones must be raised to a minimum of 300mm above the 1 in 100 flood event.
13. No flood risk assessment has been provided in this instance. This means I cannot assess the development's impact in terms of flood risk, nor whether it avoids contributing to flood risk from any of the sources identified above. I am also unable to confirm whether the finished floor levels achieve the minimum levels required. In turn, I cannot rule out flood risk harm. It would be inappropriate to address this issue by condition, as I cannot be sure that a condition would overcome any associated risk.
14. In the absence of sufficient information, the development therefore conflicts with the requirements of Policy LP12 of the Local Plan.

Principle of Development

15. The appeal site is located within the Central Activities Zone (CAZ), as defined in the Local Plan. Whilst limited details regarding the building's specific use have been provided, it is understood to be used as office space. This is confirmed in the appellant's statement and also reflects my observations during site visit. Policy LP33 of the Local Plan supports the development of office space within the CAZ, without any requirement to establish identified need. This means the principle of development is acceptable in this location.

Neighbouring Amenity

16. The appeal site is located along a busy road within a mixed-use area of the CAZ, where a wide variety of commercial uses can be found. The office use of the building is therefore typical of the commercial activity within the area. There is little evidence to suggest its current use causes any particular issues in terms of noise, disturbance, pollution or odour, and appropriate conditions could ensure this remains the case going forwards. In the context of its location within a densely developed urban area, the building's modest size, height and scale also ensure the outlook from neighbouring properties is not unduly compromised.
17. Owing to these factors, I am satisfied the development does not harm neighbouring amenity. In this regard, it is consistent with Policies LP1, LP2 and LP14, insofar as they seek to safeguard neighbouring amenity as part of new development.

Waste Management

18. The building is modest in size, and there is ample space within the wider site which could accommodate appropriate waste and recycling facilities. I am therefore satisfied that arrangements for waste management could be secured through an appropriate condition. In turn, the development would comply with Policy LP2 of the Local Plan insofar as it seeks to secure sufficient waste facilities as part of new development.

Parking and Transport

19. The appeal site is located near to several public transport links, including rail, tube and bus. Its PTAL level is therefore understood to be high. As a result, the office use of the building could likely operate, even with limited available on-site parking provision. Notably, there have been no known issues with parking in or around the site during the building's operation, which supports this conclusion. Moreover, given the modest size of the building and the ample space within the wider site, I am satisfied that sufficient cycle parking provision could be secured through an appropriate condition.
20. Overall, the development would therefore be acceptable with regards to parking and transport matters, subject to the imposition of appropriate conditions. In this regard, the development would be consistent with Policy LP51 of the Local Plan, insofar as it seeks to secure sufficient parking and cycle parking facilities as part of new development.

Other Matters

21. The appellant says the previous consent granted in connection with the building attests to its overarching acceptability. However, the Council's Local Plan was adopted in July 2023, which post-dates the grant of temporary permission in 2021. The National Planning Policy Framework has also been updated several times. The development plan has therefore moved on since the original application was considered, and the building and its use must now be assessed in accordance with current policy requirements.
22. In its previous consideration of the appeal, the Council also concluded that the building *"is not sympathetic in appearance and is not of an appropriate quality to contribute to the Battersea Park Conservation Area and would not be considered to meet the requirements for a high standard of design for new development located within the Opportunity Area"*¹. Nonetheless, the Council approved the previous temporary consent on the basis that proposals for the comprehensive redevelopment of the site may soon come forward.
23. However, notwithstanding references to a planning performance agreement and pre-application advice (which appear to pre-date the grant of temporary permission), there is little evidence to suggest any meaningful progress has been made in this regard. In the absence of such evidence, it would not be appropriate to allow the building to remain indefinitely, nor even for a further temporary period, given the harm, and potential harm, identified.

Conclusion

24. For the reasons given, the development conflicts with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
25. Appeal A should therefore not succeed, and I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended). Similarly, Appeal B should also be dismissed.

Formal Decisions

Appeal A

26. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

27. The appeal is dismissed.

James Blackwell

INSPECTOR

¹ Officer Report, 2019/2097