



Appeal Decision

Site visit made on 16 June 2025

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 July 2025

Appeal Ref: APP/H5960/W/25/3358594

Bright Horizons Battersea Day Nursery and Pre-School, 18 Latchmere Road, Battersea, London SW11 2DX

- 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 Bright Horizons Family Solutions Limited against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref is 2024/1461.
 - The development proposed is Demolition of the existing nursery building and erection of part two storey, part three storey building to provide a replacement day nursery with associated refuse/recycling, cycle, scooter and buggy storage facilities. Erection of three-storey building (plus lower ground floor) comprising of 9 No. flats with associated cycle parking and refuse/recycling facilities (as part of a phased development).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development in the banner heading above differs from that on the application form. However, through the course of the application both parties agreed to change the description as it more accurately reflects the proposal.

Main Issues

3. The main issues are the effect of the proposal on the living conditions of neighbouring occupiers on Atherton Street with particular regard to:
 - daylight and sunlight and,
 - outlook.

Reasons

Daylight and sunlight

4. As part of the application, a daylight and sunlight assessment was submitted, undertaken in accordance with the BRE Site layout planning for daylight and sunlight – A guide to good practice, dated 2022 (the BRE Guide). This provides a methodology to assess daylight levels on neighbouring buildings. The methodology compares the levels of natural light currently enjoyed and measures any change in these levels that may occur due to a proposed development. The methodology eliminates variables such as time of day and year and the effect of weather conditions which can be effected by the time of year.

5. The report includes various assessments. The principal assessment of daylight is based on the calculation of the vertical sky component ('VSC') to an affected window in both the existing and proposed condition. In addition, assessments have been taken to measure daylight distribution in rooms, annual probable sunlight hours (where applicable) and to determine the effects of any overshadowing on outdoor amenity space.
6. The guidance states that the VSC will be affected, if, after a development, it is both less than 27% of the overall available diffuse light and less than 0.8 times its former value. Therefore, if the VSC is more than 27% then enough light would still be reaching the window of the neighbouring building. However, if the VSC is less than 27% as well as less than 0.8 times its former value the occupants will notice a reduction in the amount of skylight. It outlines that any reduction below these levels should be kept to a minimum, not that they are minimum levels to be achieved
7. The submitted report assesses a number of properties on Atherton Street which are located to the rear of the proposed development, properties on Latchmere Road which are located to the north and properties on Ambrose Mews and Harling Court. The reason for refusal and Councils statement of case focusses specifically on Atherton Street. From the information before me, I see no reason to come to a different view. Hence, my assessment is focussed solely on the properties located to the rear of the appeal site at Nos 15-29 Atherton Street where the rear elevation of these properties and outdoor amenity space backs onto the appeal site.
8. The VSC results demonstrate that out of the 12 Atherton Street properties that were assessed, 7 properties have windows that fall short of the BRE guidance (Nos 17, 19, 21, 23a, 25, 27a and 29). However, with the exception of No 27a the report demonstrates that the reduction in daylight would not be detrimental as affected rooms have multiple windows, with the rooms overall meeting the BRE guidance, with the daylight distribution tests also showing acceptable retained levels.
9. The VSC results for No 27a show that the windows on the ground and first floor fail to meet the BRE guidelines. The report demonstrates that the habitable room on the ground floor serving the kitchen/living/dining area, served by two windows, would have a VSC of 17.49% down from 24.49%, below the 27% recommended threshold and would be less than 0.8 times its former value. This habitable room at No 27a also fails the daylight distribution test, although only marginally. Consequently, occupiers would notice a reduction in the amount of light received.
10. Although it fails to meet these guidelines, this does not automatically mean the proposal would result in unacceptable harm, just that it would be noticeable. Paragraph 1.6 of the BRE Guide states that the guidance needs to be applied flexibly and the London Plan Housing Supplementary Guide (SPG) (2016) endorses this approach, recognising that the BRE guidelines should be applied sensitively to higher density development, particularly in urban settings, such as the appeal location, and that decision makers should recognise that fully optimising housing potential on larger sites may necessitate standards which depart from those presently experienced but which still achieve satisfactory levels of residential amenity and avoid unacceptable harm. My assessment is undertaken in this context.

11. Furthermore, Paragraph 130c of the National Planning Policy Framework (the Framework) advises that when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of the site (as long as the resulting scheme would provide acceptable living standards).
12. Based on Appendix H of the BRE Guide, the submitted evidence indicates that the level of daylight impact from the VSC and daylight distribution assessments undertaken at No 27A would be classified as minor, being only marginally outside the guidelines which is classed as anywhere between a 20-29.9% loss.
13. The current single-storey building with a steep mono-pitched roof is somewhat of an anomaly, the proposal would be located in a dense urban environment and therefore a flexible approach is sensible. While the loss of light would be noticeable at No 27A, given the limited margins outside the recommended BRE guidelines, I consider that it would not cause unacceptable harm to the neighbouring occupiers' living conditions.
14. An assessment has also been undertaken of the outdoor amenity space of the Atherton Street properties. BRE guidance suggests that at least 50% of open space should receive no less than 2 hours of direct sun on the spring equinox. However, the constrained nature of the garden spaces with limited depth means that many of the gardens do not currently achieve this. The analysis shows that even with the proposed development the amount of sunlight would not be less than 0.8 times their current value. Therefore, any change in sunlight being afforded to the outdoor amenity spaces, resulting from the development would be minimal.
15. Paying regard to the flexibility afforded by the BRE Guidelines and the prevailing context of this dense urban area, I conclude that the living conditions of neighbouring occupiers on Atherton Street with regard to daylight and sunlight would not be unacceptably harmed. It therefore accords with Policy LP2.B.1 of the Wandsworth Local Plan (2023) (LP) which supports development proposals where it avoids unacceptable impacts on levels of daylight and sunlight, including outdoor space.

Outlook

16. The western boundary of the appeal site adjoins the rear gardens of terraced properties that front Atherton Street. These are typically three storey dwellings with a variety of extensions, along with small rear gardens.
17. The existing building is located close to the rear boundary of these properties. However, it is single storey with a roof that slopes up and away from the boundary, thus a good level of outlook is afforded to these properties. The single storey nature is an anomaly, with surrounding buildings noticeably taller. Indeed, I note the appeal site once contained terraced properties similar to those to the north of the site. It is accepted by all parties that redevelopment of the site is expected in some form, and that the outlook from these properties will change as a result.
18. The ground floor of the proposed building would be set slightly further back from the rear boundary than the existing building, aligning with the two and three storey extensions at Nos 14–16 Latchmere Road. However, the proposal would be predominantly three storeys tall, two-storeys higher than the current building. Whilst the neighbouring terrace north of the appeal site is also three storeys in

height, the proposed first and second floors would extend noticeably beyond the main three-storey rear elevations of many of these properties. Although a number of these have first and second floor additions, they are more limited in width and height than the proposal. Consequently, the rear elevations of these properties are noticeably more staggered than the appeal proposal, with a more pronounced setback of the main rear elevation from the extensions.

19. Although the ground floor of the proposal would be considerably screened by the proposed two metre high wall when viewed from the ground floor rear windows of the Atherton Street properties, the first and second floors would significantly project above it.
20. I acknowledge that setbacks have been introduced at the first and second floor to break up the massing of the building, along with the varying use of modern materials. I am also mindful of the varying separation distances for each proposed floor from the rear boundary, as shown on the contextual floor plan. However, towards the rear of Nos 17-23 Atherton Street, the setback at first and second floor is limited, and as such, would not sufficiently reduce the bulk of the building. Given the height, massing and proximity of the proposal to Nos 17-29 Atherton Street, which have gardens of limited depth, the proposal would have an overbearing and oppressive impact on the occupiers of those properties, causing substantial harm to their living conditions with regard to outlook.
21. Whilst the substantial setback of the second floor towards the rear of Nos 25-29, with its vertical brick detailing, would reduce the impact of the proposal when viewed from the second floor of these properties, the close proximity of the first floor would still cause a harmful loss of outlook from their ground and first floor windows.
22. Drawing the above together, due to the combination of height, massing and proximity of the proposal to the rear of Nos 17-29 Atherton Street, which have gardens of limited depth, the proposal would appear unduly dominant and imposing when viewed from the rear of Nos 17-29 Atherton Street. This remains the case even when considering the dense urban environment.
23. Whilst the outdoor spaces would not experience harmful reductions in direct sunlight, I consider that for the forementioned reasons, the overbearing effects would remain to be felt when occupiers are utilising their outdoor amenity space.
24. Occupiers of No 15 Atherton Street have an outlook predominantly towards No 16 Latchmere Road. I am therefore not persuaded that outlook at this property would be significantly harmed.
25. In conclusion, the proposal would cause substantial harm to the living conditions of the neighbouring occupiers at Nos 17 – 29 Atherton Street due to overbearing effects and the loss of outlook. As such, the proposal would conflict with Policy LP1.A.1 of the LP which seeks proposals to have a high level of physical integration with their surroundings and Policy LP2.B.3 which seeks to ensure proposals are not visually intrusive or overbearing as result of its height, scale, massing or siting. As harm has been identified, the proposal would also not accord with Policy LP7.D of the LP which supports proposals on brownfield sites where all other elements of the proposal are considered acceptable. There would also be conflict with the Framework which seeks development that provides a high standard of amenity for existing and future users.

Other Matters

26. Local residents have expressed a wide range of concerns, including, but not limited to parking, congestion, impacts during construction on the roads, flooding, lack of affordable housing, unsympathetic design, privacy, security and noise concerns. However, I note that these matters were considered, where relevant, by the Council at the application stage and did not form part of the reasons for refusal, which I have dealt with in the assessment above. As I have found harm in relation to one of the main issues there is no need for me to pursue these matters further.
27. I note that the officer decision was overturned at planning committee. However, the planning committee is not bound to take the advice of its officers. Each appeal is decided on its own merits and I have considered the matters in dispute based on the evidence before me and observations on site.
28. The appeal site is located to the north of Nos 22 and 26 Latchmere Road (North and South Lodge) which are locally listed buildings, recognised for their historical association and architectural interest. These buildings are all that remain of the late 19th century Wandsworth and Clapham Union's Board of Guardians dispensary and relief station. They were part of a much larger complex, which has since been replaced with a mews style development. Given the limited architectural contribution of the existing building and lack of contextual relationship with the locally listed buildings, the demolition of the appeal building would not have an adverse effect on the setting of these locally listed buildings.
29. The proposal would be of a similar massing and scale as the adjacent 19th century properties when viewed from Latchmere Road. It would not compete in scale, being no higher than the North and South Lodges. Whilst of contemporary design, the materials would ensure it blends in with the surrounding architecture. As such, I am satisfied the scheme would not have an adverse effect on the setting of these locally listed buildings.
30. The proposal is also within the setting of the Grade II listed Assemblies of the First Born Church and Grade II listed Dovedale Cottages. Section 66 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the building or its setting. The significance of the cottages is derived primarily from its architectural interest. Given the intervening distance and lack of visibility between the sites, the demolition of the existing building and construction of the proposed building would not have an adverse effect on the setting of the cottages.
31. Regarding the church, the significance derives, in part from its architectural interest. The appeal site can be seen in distant views from the church. However, the site at present does not make a positive contribution to the setting. The demolition would remove a negative element of the setting for all the listed buildings and it would preserve the significance of the Grade II listed church.
32. Whilst the proposal would be visible in distant views from the church, given the similar massing and scale of the frontage to the Latchmere Road terraces north of the site, it would not negatively impact on the setting of the church and it would preserve the significance of the building.

Planning Balance

33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
34. The proposal would make efficient use of a brownfield site with no objection in principle to the redevelopment of the site. The Framework says substantial weight should be given to this, unless substantial harm would be caused. I have identified that substantial harm would be caused. This therefore tempers the weight to be afforded to this benefit.
35. The addition of 9 energy efficient residential units of varying sizes in a highly accessible location, would accord with the Frameworks aim of boosting the supply of housing. The Framework also recognises that small and medium sized sites can make an important contribution to housing in the area and that the development of windfall sites within existing settlements, such as the appeal site, should be supported. The proposal would also lead to social and economic benefits through the creation of jobs, both during and post construction, and through residents, parents and staff spending in the local economy. The proposal is an attractive contemporary design and would be an enhancement to the streetscape compared to the existing building. There would also be a biodiversity net gain. I assign considerable weight to the totality of these benefits.
36. The proposal would lead to a modest uplift in educational provision which the local plan supports and which the Framework directs great weight should be given, this would be a modest benefit.
37. I have found no harm to the neighbouring occupiers with regard to daylight and sunlight nor would there be any harm to the nearby heritage assets. However, an absence of harm is a neutral consideration in the overall planning balance.
38. I have found that substantial harm would be caused to the outlook experienced by the occupiers of the properties on Atherton Street. The Framework seeks a high standard of amenity for existing and future users. I give very great weight to this harm. Weighing against this harm are the benefits of the development. However, I find that the totality of weight given to the other considerations is not sufficient to outweigh the substantial harm I have identified to the neighbouring occupiers living conditions.

Conclusion

39. In conclusion, the proposal conflicts with the development plan and there are no material considerations that outweigh the identified harm, and that warrant a decision other than in accordance with the development plan. The appeal is therefore dismissed.

T Bennett

INSPECTOR