



Appeal Decision

Site visit made on 20 June 2025

by **D R Kay BA Dip.Arch RIBA**

an Inspector appointed by the Secretary of State

Decision date: 04 August 2025

Appeal Ref: APP/H5960/W/25/3363396

149 Upper Tooting Road, Wandsworth, London SW17 7TJ

- 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 Mohammad and Nusrat Qamar against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref is 2023/4077.
 - The development proposed is described as 'Retrospective application for the installation of an extractor fan'.
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Decision

1. The appeal is allowed, and planning permission is granted for the installation of an extractor fan and duct system at 149 Upper Tooting Road, Wandsworth, London, SW17 7TJ in accordance with the terms of the application, Ref 2023/4077, and the plans numbered UK23087-TD-A-001 - OS Plan, UK23087-TD-A-101 Rev P02 – Pre-Existing & Existing Plans, UK23087-TD-A-102 Rev P02 - Existing Ground Floor Ceiling, UK23087-TD-A-103 Rev P02 – Pre-Existing & Existing First Floor Plans, UK23087-TD-A-201 Rev P02 – Pre-Existing & Existing Elevations, subject to the conditions in the attached schedule.

Preliminary Matters

2. At my site visit it was apparent that the extractor fan and ductwork had already been installed, and this appeared to be consistent with the plans before me. I have therefore considered the appeal on the basis that the development has already taken place, as did the Council.
3. For clarity, I have amended the description in my decision above to more closely reflect the appeal scheme and remove words not describing acts of development.

Main Issue

4. The main issue is the effect of the development on the living conditions of neighbouring occupiers, with particular reference to outlook and cooking smells.

Reasons

Outlook

5. The appeal property consists of a restaurant at ground floor level with flats to the upper three floors of the four-storey building. The property has a three-storey outrigger together with a single storey area of accommodation at the rear, the roof of which extends to join the gable wall of the adjacent property at 2 Lessingham

Avenue (No.2). This rear accommodation has a part pitched roof and part flat-roofed area.

6. The development has introduced a steel extract duct system serving the restaurant kitchen, which includes an extract fan unit and associated extract ductwork. The ductwork exits the flat roof before turning 90 degrees towards the rear elevation of the three-storey outrigger, it joins the fan unit before exiting and turning 90 degrees to travel vertically up the rear elevation of the outrigger and terminating above the pitched roof line of the outrigger.
7. The underside of the horizontal section of ductwork is located level with the top quarter of the rear facing window of the first floor flat and is offset a small distance horizontally from the side of this window, which I understand serves a bedroom.
8. The outlook from this window is already constrained by the significant blank gable wall of No.2, which is effectively three-storeys in height, and is only a short distance from the window. There are also several three-storey rear outriggers present to adjacent properties to the south, one of which projects almost in line with the gable of No.2. These pre-existing circumstances effectively preclude much of the outlook from the window in the direction in which the appeal development has taken place.
9. In contrast, there is a much more open outlook from this window past the gable of No.2 to the open aspect up Lessingham Avenue, and this is completely unaffected by the appeal development. This open aspect provides an acceptable level of outlook for occupants of the room, whether it is used as a bedroom or for a study space. In addition, the height of the ductwork is sufficient to allow views underneath it from this window.
10. I therefore find that the development does not significantly reduce the outlook from the window to the rear-facing first-floor bedroom to a level where harm would result. As the rear window to the second-floor flat is located horizontally further away than the first-floor flat's window, and is a floor level higher, the appeal development has also had little material effect on outlook for the occupants of that flat. I therefore find the overall effect of the development on the outlook of neighbouring occupiers is acceptable.

Cooking Smells

11. The appellant's Odour Assessment Report prepared by a specialist air quality consultant, identifies two options for filtration within the extract system to control cooking smells from the restaurant. On the evidence before me, I see no reason why such an approach would not provide effective mitigation. Whether or not one of the recommended filtration options is already in place, its approval, installation and retention could be secured via condition. I note the Council has also accepted this approach in principle.
12. For the above reasons, I conclude the development has an acceptable effect on the living conditions of neighbouring occupiers, with particular reference to outlook and cooking smells. Accordingly, I find no conflict with Policies LP2 and LP14 of the Wandsworth Local Plan (2023), which require, amongst other things, development not to adversely impact the amenity of existing or future occupiers.

Other Matters

13. The appellant's Noise Impact Assessment (NIA) by Venta Acoustics. recommends for the extract system is fitted with anti-vibration mounts and brackets, amongst other things. On the evidence before me, I see no reason why these measures would not be effective in mitigating noise and vibration when the system is in use. Whether or not they are already in place, approval, installation and retention of these mitigation measures could be secured via condition. Subject to this, I am satisfied the effect of the development on the living condition of neighbouring occupiers, with respect to noise and disturbance, is acceptable.

Conditions

14. I have considered the condition suggested by the Council and have amended the wording where necessary in the interests of clarity and enforceability. As the development has already been carried out, it is not necessary to impose a commencement condition or a plans condition. However, I have listed the plans in my decision above, for certainty.
15. Conditions are necessary to ensure details of cooking smell filtration and noise/vibration mitigation measure are submitted, approved, implemented and retained, for the reasons I have outlined above. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of these measures before the development takes place. The conditions will ensure that the development can be enforced against if the requirements are not met.

Conclusion

16. For the reasons set out above, I conclude that the development accords with the development plan read as a whole. There are no material considerations, including policies in the Framework, that would justify determining other than in accordance with it. Therefore, the appeal should be allowed.

D R Kay

INSPECTOR

Schedule of Conditions

- 1 Unless within 2 months of the date of this decision a scheme for filtration of cooking smells is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, in accordance with the approved details, the use of the extract system of the ground floor restaurant shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.
 - a. If no scheme in accordance with this condition is approved within 4 months of the date of this decision, the use of the extract system of the ground floor restaurant shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.
 - b. Upon implementation of the approved filtration scheme specified in this condition, that filtration scheme shall thereafter be retained, operated and maintained.
 - c. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 2 Unless within 2 months of the date of this decision a scheme for the mitigation of noise and vibration from the extract system, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the use of the extract system of the ground floor restaurant shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.
 - a. If no scheme in accordance with this condition is approved within 4 months of the date of this decision, the use of the extract system of the ground floor restaurant shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.
 - b. Upon implementation of the approved noise and vibration mitigation scheme specified in this condition, that noise and mitigation scheme shall thereafter be retained and maintained.
 - c. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

***** End of Schedule*****