
Appeal Decision

Site visit made on 18 November 2025

by **P Burley BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 November 2025

Appeal Ref: APP/H5960/W/25/3362554

87 Maisonette Basement First and Second Floors A, Nightingale Lane, London SW12 8NX

- 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 Rockport Homes Ltd and KSE Investments Ltd against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref is 2024/3983.
 - The development proposed is 'Retention of residential floorspace at basement level, including the increase of the rear lightwell, replacement of front lightwell grille and minor internal alterations to create a 1-bedroom flat. Alterations and division of rear garden.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the appeal form the appellant has indicated that the description of development has changed from that which was originally applied for. I have therefore used the description that the appellant has set out on the appeal form.
3. Whilst the application form sought planning permission and listed building consent, this appeal relates solely to the refusal of planning permission; there is no appeal relating to an application for listed building consent before me.
4. In its Statement of Case (SoC) the appellant has requested that I accept updated section drawings and consider a number of revisions to the appeal scheme, specifically:
 - erection of a 1.7m lattice privacy screen adjacent to the rear lightwell which would serve as private outdoor space associated with the proposed dwelling;
 - changes to the access to the rear gardens to limit access adjacent to the rear lightwell;
 - obscured glazing to the bottom half of the rear window of a commercial unit to prevent overlooking into the rear lightwell; and
 - obscured glazing to the two small windows below the stall-risers in the shopfront above the proposed dwelling.
5. The Council has noted these changes in its SoC and given that they are limited in nature, do not affect the overall substance of the appeal scheme, and are unlikely

to result in harmful impacts to other parties, I am satisfied that no party would be prejudiced by me taking these revisions or the updated section drawings into account in my determination of this appeal and I am proceeding on that basis.

Main Issue

6. The main issue is whether the proposal would provide acceptable living conditions for the future occupiers of the dwelling with regard to outlook, floor-to-ceiling heights, and privacy.

Reasons

Outlook

7. The reason for refusal notes that the proposed flat would be located entirely at basement level with the front pavement and rear garden lightwells providing restricted outlook. Although the decision notice did not refer to the relevant policy in this regard – Policy D3 of the London Plan (2021) (LP) – the Council has discussed that policy in its officer report and its SoC. Furthermore, as provided for at section 79 of the Town and Country Planning Act 1990 (as amended), on appeal the Secretary of State may deal with an application as if it had been made to him in the first instance. In doing so, regard must be paid to all relevant policies.
8. Even with the proposed changes to the lightwells, the appeal scheme would provide a poor outlook for the future occupiers. Because the dwelling would be a whole storey lower than the pavement, views from within the flat would largely be towards the walls of the lightwells. Although the appellant has submitted images which it says show that there would be a light and pleasant outlook, the images are computer-generated and are not accompanied by any explanation of the lighting conditions that they are intended to represent, whether those lighting conditions would be typical, or whether the illustrated planting could successfully grow in the lightwells.
9. However, even if the lightwells were attractive and there were good levels of sunlight and daylight, there would still be a sense of enclosure that would be compounded by the privacy screen to the rear, resulting in a claustrophobic living environment in both the bedroom and living areas that would also be lacking in a meaningful connection with the outside. Therefore, the appeal scheme would conflict with LP Policy D3 which says that development proposals should deliver appropriate outlook and achieve indoor environments that are comfortable and inviting for people to use.

Floor-to-ceiling Heights

10. LP Policy D6 states that the minimum floor-to-ceiling height must be 2.5m for at least 75% of the gross internal area of a dwelling. Whilst more than 75% of the proposed dwelling would have a floor-to-ceiling height of 2.42m, the appellant has noted the listed status of the building and has argued that the appeal scheme would not conflict with the objectives of the standard, also stating that it is agreed by both parties that the proposed flat would receive good levels of light and natural ventilation and that the appeal scheme would exceed the minimum floorspace requirement. In addition, it has stated that the appeal scheme would exceed the minimum floor-to-ceiling height specified in the Nationally Described Space Standard.

11. However, the minimum height specified in the LP is also required to ensure that there is a sense of space in dwellings, a qualitative consideration which goes beyond a dwelling's compliance with quantitative minimum space standards.
12. Whilst the Council may have exercised flexibility in relation to this requirement elsewhere, I have not been provided with the particular circumstances of each of those decisions, including in respect of how this consideration was weighed in the overall planning balance. Based on my visit to the site, I find that the floor-to-ceiling height has an effect on the sense of space within the host building and thus would affect the quality of the residential accommodation. Whilst the building's listed status might represent a constraint on physical changes and these are matters to be weighed against one another, the appeal scheme nevertheless conflicts with LP Policy D6 which requires a minimum floor-to-ceiling height in dwellings.

Privacy

13. When I visited the site I noted that views from the pavement on Nightingale Lane into the basement would be very limited and, when combined with the two small windows below the ground floor shop's stallriser being obscured and all openings into the lightwell being double glazed, there is not likely to be a significant privacy issue. Similarly, given the relationship of these windows and openings with the proposed living accommodation, I consider it unlikely that the absence of defensible space would harmfully undermine any sense of privacy or security. To the rear, the proposed lattice privacy screen and the obscured glazing to the commercial premises would also result in an acceptable degree of privacy.
14. Overall, therefore, the appeal scheme would not conflict with LP Policy D6 and the associated Table 3.2 in respect of the provision of adequate privacy. Whilst the Council has also said that the appeal scheme conflicts with Policy LP27 of the Wandsworth Local Plan (2023) (WLP), the criteria in that policy – which include amongst other things privacy – relate only to single-aspect dwellings and given that the appeal scheme would have two aspects, this policy is not applicable.

Other Matters

15. Because the appeal site is in a conservation area (CA), in making this decision I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. In addition, the appeal site forms part of a Grade II listed building and Section 66(1) of the Act requires decision-makers to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
16. A lightwell to Nightingale Lane would be reinstated and covered with a flush grille, and while a French door would be installed for access, no historically- or architecturally-significant elements would be lost as a result of these works. Given the presence of multiple lightwells along the street, the reinstatement would be in keeping with the character of the CA. Similarly, the enlargement of the lightwell to the rear and associated changes to the building's rear elevation would be in keeping with the area's character. The proposal would not affect any notable features of the Grade II listed building or cause harm to its special historic or architectural significance. The only visible change from the street would be the

reinstatement of the lightwell cover, and the proposed changes to the rear would be in keeping with the host building.

17. Accordingly, the proposed development would accord with WLP Policies LP1 and LP3, LP Policy HC1, Section 16 of the National Planning Policy Framework and sections 66(1) and 72(1) of the Act which together seek good design and to conserve the significance of designated heritage assets, including their settings.
18. Whilst correspondence from local estate agents indicates that the proposed dwelling would be popular amongst particular demographics and sets out what the agents perceive to be benefits of the appeal scheme, the likely demand for the proposed dwelling or aspects which may be popular, including the location of the flat and its accessibility by public transport, do not equate to the appeal scheme providing acceptable living conditions overall within the terms of the relevant policy.
19. Letters from commercial agents suggest that there is no realistic potential for letting the space for commercial use. However, these opinions have not been based on any specific market testing and, therefore, I attach very limited weight to them. Accordingly, I also attach a very limited amount of weight to the argument that residential is the only realistic and appropriate use for the basement or that a shared access would compromise residential uses on the upper floors. Furthermore, I do not attach any material weight to the argument that the floorspace could become redundant, fall into disrepair, and compromise the structural integrity of the listed building not least as any deterioration in the condition of the building could also have implications for the other residential and commercial occupiers of the building and, for that reason, I consider it unlikely that the owner would allow the building to fall into disrepair.
20. The appellant has also noted that the Council did not give any weight to the loss of residential floorspace. It has said that consented plans from 2019 show the basement in use as a residential annex, that council tax has been paid for the basement continuously since 1994, and that these facts are not disputed by the Council. However, I have not been provided with any explanation of why that use cannot continue and, therefore, why the dismissal of this appeal would inevitably result in the loss of residential floorspace. On that basis, I attach a very limited amount of weight to this argument.

Planning Balance and Conclusion

21. Given that the appellant has said that the existing use is residential, the creation of a self-contained 1-bed flat is a matter to which I attach a limited amount of positive weight. The effect of the appeal scheme on designated heritage assets is a neutral component in the overall balance.
22. Although it has been argued that there is no realistic potential for letting the space for commercial use and that allowing this appeal would avoid the possibility of the basement becoming redundant and falling into disrepair, which over time could compromise the structural integrity of the listed building, for the reasons given above these are considerations to which, together, I attach a very limited amount of weight.
23. Whilst the proposed flat might comply with or exceed a number of criteria for assessing the quality of the proposed accommodation, consideration must be

given to the overall quality of the living environment. In this case I find that the poor outlook would result in an unacceptable standard of accommodation, that this would clearly outweigh the positive weight that I have identified, and that the unacceptable standard of accommodation would be compounded by the effect that the floor-to-ceiling height would have on the sense of space.

24. Therefore, I conclude that the appeal scheme conflicts with the development plan when taken as a whole, that there are no material considerations which indicate that a decision should be made other than in accordance with the development plan, and for the reasons set out above the appeal should be dismissed.

P Burley

INSPECTOR