



Appeal Decision

Site visit made on 5 November 2025

by **L Reid BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 November 2025

Appeal Ref: APP/T5720/W/25/3368473

54A Longthornton Road, Streatham, London SW16 5QD

- 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 Mr Jason Li, Cap Sar Design and Build against the decision of the Council of the London Borough of Merton.
 - The application Ref is 24/P2464.
 - The development proposed is demolition of existing Class E building and erection of part single, part two, part three storey building comprising 5 flats (2 x 1 bed flats and 3 x studio flats).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 November 2024 the Council adopted the Merton Local Plan 2024 – 2037/38 (the Local Plan), replacing the Core Planning Strategy 2011 and the Sites and Policies Plan and Policies Maps 2014. The Council has confirmed which policies are relevant to the appeal and has stated that two additional reasons for refusal would be introduced relating to affordable housing and sustainability and energy efficiency.
3. The Procedural Guide: Planning Appeals – England states that the appeal process should not be used to evolve a scheme. The appellant has submitted amended proposed plans with the appeal, adding six new windows in the side elevation, an internal sunlight tunnel and changes to cycle parking, along with an updated daylight and sunlight assessment. The addition of the windows would change the external appearance of the building. This is a fundamental change to the application over what was considered at planning application stage and would result in a materially different proposal. As the amended plans have not been subject to formal consultation, accepting these plans would deny interested parties the chance to comment, causing injustice to them. Therefore, I have not accepted the amended plans nor the updated daylight and sunlight assessment, as it includes these changes. In the interests of natural justice, I have determined the appeal on the basis of the plans submitted to the Council.
4. The appellant submitted an updated preliminary ecological assessment, an updated biodiversity net gain assessment and correspondence with the Council Street Trees section with the appeal. The statement of case also includes the shadowing effect and daylight levels pre and post tree removal on Pavillion Court. During the appeal, they also provided a GLA carbon emissions reporting spreadsheet, an energy assessment, a revised sustainable construction statement

and revised SAP calculations. This new evidence would not result in a substantial or fundamental change to result in a different application.

5. The Council has also had the opportunity to comment on the new evidence. The acceptance of this new evidence would not deprive those who should have been consulted of the opportunity of such consultation. I have therefore considered this new evidence in determining this appeal. The Council has stated that the additional reason for refusal relating to sustainability and energy efficiency could be withdrawn, provided that a carbon offset contribution is secured.
6. During the appeal, the appellant submitted a completed unilateral undertaking (UU) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended). The Council has had the opportunity to comment on this and confirmed that the reasons for refusal relating to the loss of the tree and suitable planting, biodiversity net gain, affordable housing and sustainability and energy efficiency would be overcome. I shall return to this later in my decision.
7. At final comment stage, the appellant submitted an updated existing site plan to address an error in the positioning of the existing building. Although the Council and interested parties have not had the opportunity to comment on this plan, it would not result in a substantial or fundamental change to the proposal. My acceptance of this plan would therefore not prejudice any party.

Main Issues

8. The main issues are:
 - The effect of the proposal on the living conditions of the occupants of Pavilion Court with regard to light;
 - Whether the proposal would provide a satisfactory standard of accommodation for future occupiers, with regard to cycle facilities, light and outlook; and,
 - The effect of the proposal on the character and appearance of the area.

Reasons

Living conditions of the occupants of Pavilion Court

9. The appeal site comprises a single storey building situated on a long and narrow plot. It is next to Pavilion Court which is a three storey block of flats with several windows across all three floors in its side elevation. The proposal would introduce a three storey building of a substantial mass, built right up to the shared boundary, extending along most of the site's depth. It would be positioned adjacent to the windowed elevation of Pavilion Court.
10. The daylight and sunlight assessment (the DSA)¹ identifies that the ground floor and first floor windows in the side elevation of Pavilion Court are the relevant receptor points (the affected windows). It concludes that the ground floor windows would notice a reduction in the amount of skylight, making the area lit by the window appear darker. However, the vertical sky component results demonstrate that the daylight reaching all the affected windows would be below BRE guidance. This is because there would be a predicted change by more than 20% between

¹ Environmental Assessment Services Ltd, Daylight and Sunlight Assessment October 2022 (Revised February 2024)

the existing and post-development daylight availability. The proposal would therefore have a noticeable effect on daylight to the affected windows.

11. There is a large tree near the appeal site's front boundary, within the frontage of Pavilion Court. The DSA briefly notes its effect on daylight to the affected windows. It has been suggested that removing the tree would increase daylight, partially offsetting the loss of light caused by the proposed building, citing a 5.5% increase in daylight if the tree is removed and the proposed building is constructed. It is not clear if this accounts for full foliage or bare branches, and these figures are also not supported by any technical measurements, calculations or diagrams. There is no statutory requirement to provide such details; however, daylight impact is central to assessing the development's acceptability. Given the uncertainty, I attach limited weight to the increase in daylight through the removal of the tree.
12. A diagram showing the overshadowing from the proposed building on the side elevation of Pavilion Court is provided, but there is no methodology to explain these findings. It is stated that two affected windows are secondary windows, while the others are the sole light sources for a bedroom and kitchen. These are rooms where occupants are likely to spend time throughout the day. It is also unclear if the kitchen and bedroom windows serve the same flat, in which case the impact would be greater, even if they are dual aspect flats.
13. It is accepted that the National Planning Policy Framework (the Framework), the National Planning Policy Guidance and the Mayor of London Housing Supplementary Planning Guidance 2016 advocate for a flexible approach to BRE standards, having regard to the site context. The appeal site is constrained by its overall size, and it is also in a built-up area. Notwithstanding this, the appellant's assertion that avoiding daylight impact would require such a reduction in the building's height and mass that it would prevent a reasonable development and make it incompatible with the surroundings is unsupported by any robust evidence.
14. For these reasons, I conclude that it has not been demonstrated that the proposal would not cause harm to the living conditions of the occupants of Pavilion Court, with regard to light. The proposal would therefore conflict with Policy D12.3 of the Local Plan, which amongst other things, requires development proposals to demonstrate that acceptable light would be available to the surroundings.

Standard of accommodation for future occupants

15. Although this has been flagged as an error, the plans show a two-tier racking system for cycle storage, requiring bikes to be lifted. There is no substantive evidence that this system is user-friendly for all abilities or that the Council has endorsed such systems elsewhere. Even if the three cycle parking spaces in the lower rack and the two spaces provided in the forecourt would meet the minimum requirements and would be accessible, there is no guarantee of how these spaces would be allocated. If these spaces were full and a user could not lift their bike to the upper rack, they would be unable to park their bicycle.
16. This issue must be balanced against the constraints of the site, however, Policy T5 of the London Plan 2021 (the London Plan) requires cycle parking to be fit for purpose, catering for larger and adapted cycles for disabled people. It also states cycle parking should be designed in accordance with the London Cycle Design Standards 2014, which highlights accessibility for users with physical, sensory, or cognitive impairments.

17. Although the proposal exceeds the minimum cycle parking provision, the facilities would be inadequate. While cycle parking details are often secured by condition, there must be a reasonable degree of scope for a condition to resolve an issue. In this case, I cannot be certain that changing the cycle storage design would not require significant changes to the layout of the building, particularly given the space available at the front of the proposed building and the space internally. As such, this matter cannot be made acceptable by planning condition.
18. The DSA shows Flat 1 would fail the minimum daylight factor and medium target daylight factor, and with its long layout and single window, it would receive poor natural light. The 'hard to light' metric is not relevant here, as this is a redevelopment proposal, as opposed to a conversion or extension which would be more restricted by the existing building fabric. The site's narrowness, along with the internal and external infrastructure required for residential development, will inevitably influence the layout of the proposal. However, there is no objective analysis to show that internal layout changes would make the development impractical, or that using the site for a single dwelling would fail to optimise its potential. These arguments are therefore of limited weight.
19. The DSA also demonstrates that the living room in Flat 3 would fail to meet the minimum daylight factor and medium target daylight factor. However, the window itself would be large, without any obstructions directly in front of it. Even though the side elevation windows would be directly adjacent to the side elevation of Pavilion Court, the flat would be dual aspect. I therefore consider the natural light in this flat would be acceptable.
20. Flats 2 and 4 would have side windows overlooking the rear car park of Pavilion Court. There is no compelling evidence before me to indicate that development is likely to come forward in this part of Pavilion Court. I must therefore assess the application based on current circumstances. The side windows in Flat 4 would be unobstructed, allowing for outlook. It would also have various roof lights which would allow for more light. The side windows of Flat 2 would be high level and would therefore be unlikely to be blocked by the existing fencing or parking of cars. This flat would also have main windows in the rear elevation, providing a larger light source. Without evidence to the contrary, the outlook and light to Flats 2 and 4 would be acceptable.
21. Whilst I have found that the light to Flats 2, 3 and 4, as well as the outlook in Flats 2 and 4 would be acceptable, the light in Flat 1 would be poor. Inadequate cycle storage facilities would also be provided. I therefore conclude that the proposal as a whole would provide an unsatisfactory standard of accommodation for future occupiers. Accordingly, it would conflict with Policy D12.3 of the Local Plan, which amongst other things requires development to demonstrate that a high standard of amenity is provided. It would also conflict with Policy T5 of the London Plan and Policy T16.2 of the Local Plan which when taken together, seek to encourage and enable active travel choices and help remove barriers to cycling.
22. The reason for refusal includes Policy D7 of the London Plan which relates to the provision of wheelchair user dwellings and accessible and adaptable dwellings. This is not determinative in the context of this main issue.

Character and appearance

23. The surrounding buildings typically consist of two storey terraced houses and two and three storey blocks of flats, which are varied in their design. Generally, the street pattern is characterised by buildings that are built up to the side boundaries, with little space between them, set back from the road, with a small frontage which are mostly hard surfaced. Some of the nearby flats have some soft landscaping around the frontage, but most nearby frontages have no soft landscaping. Frontages contain refuse and recycling bins. Although street trees line the road, they offer limited visual relief because of how built-up and continuous the development is along the road.
24. To facilitate the proposal, the protected tree near the front boundary would need to be removed. Whilst this represents a loss of landscaping, the tree does not currently provide a great level of visual softening to the appeal site. The proposed building would have a large footprint, extending to the rear and side boundaries. This would leave little space for soft landscaping, but this is typical of the area. Despite the lack of soft landscaping, as the siting of the proposed building would be similar to the nearby buildings in terms of proximity to the side boundaries, and its layout would follow the building line along the road, it would not appear as abrupt in this local context.
25. The frontage would be hard landscaped for refuse and cycle storage, similar to the other frontages along the road. With some space remaining beside these facilities, the frontage would not be visually cluttered. Although the designs differ, nearby flats at the junction of Longthornton Road and Henlock Close also have projecting balconies at the first floor. The proposed first floor balcony would therefore not be visually intrusive in the street scene. The front elevation would not appear as top-heavy, given that the proposed balcony would have a relatively light weight appearance with a glazed balustrade, and it would be the only projecting feature at first floor level.
26. For these reasons, I conclude that the proposal would not cause harm to the character or appearance of the area. It would therefore comply with Policies D3, D4 and D8 of the London Plan and Policies D12.2 and D12.3 of the Local Plan. These policies, amongst other things, require development to respond to the existing character of a place, to ensure that scale, height, mass, bulk and form is appropriate and enhances local distinctiveness.

Other Matters

27. The signed UU secures financial contributions towards affordable housing, carbon emissions offsetting, street tree planting and an obligation to produce a Biodiversity Net Gain (BNG) plan, provide off-site BNG mitigation via BNG credits and enter into a Section 278 Highways Act agreement. As the appeal is to be dismissed for other reasons, it is not necessary for me to consider the legal agreement in detail as it would not change the outcome.

Planning Balance

28. Whilst I have found that the proposal would not cause harm to the character and appearance of the area, it would cause harm to the living conditions of the occupants of Pavilion Court and would provide an unsatisfactory standard of

accommodation for future occupiers. It therefore conflicts with the development plan as a whole. I apportion significant weight to this conflict and the associated harm.

29. I have considered the appeal in the context of Policies H1 and H2 of the London Plan and the Framework in promoting an effective use of previously developed land with the potential to intensify the use of land to support additional homes and the role that small sites play in meeting housing need. However, it is not unusual for policies to pull in different directions.
30. Whilst the Government has proposed various planning reforms in relation to speeding up development on small to medium-sized sites and brownfield land, as these reforms are only at the consultation stage, I am only able to give very limited weight to these matters.
31. The Council raised no objection to the principle of the development, nor on grounds relating to increasing the density on the site, drainage or parking. However, compliance with relevant national and local planning policies on these matters would be required in any case. These are therefore neutral matters and neither weigh in favour nor against the appeal scheme.
32. The proposal would result in 5 additional homes that could be built out quickly, supporting the Government's objective in significantly boosting the supply of homes. An off site affordable housing contribution would be secured, which I give great weight. Some social and economic benefits would also stem from employment associated with the construction phase and future occupants would bring trade to nearby shops and services. Taken together, these benefits attract moderate weight given the quantum of development under consideration and would not outweigh the harm I have identified or the conflict with the development plan.

Conclusion

33. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

L Reid

INSPECTOR