



## 2. **SITE AND SURROUNDINGS**

- 2.1 The application site comprises a broadly triangular piece of land attached to 1 Leopold Terrace, which is itself an end of terrace property situated on the south west side of Dora Road, a well-established residential road. Leopold Terrace is a three storey modern block of flats and previously on the application site there was a two storey dwellinghouse which has since been demolished. To the rear of the site are the rear gardens of residential properties at Vineyard Hill Road.
- 2.2 The application site is not within a Conservation Area; however it adjoins the Vineyard Hill Conservation Area. It is also located within a Controlled Parking Zone.
- 2.3 There is a Tree Preservation Order on the site (ref is (621) 2012).

## 3. **CURRENT PROPOSAL**

- 3.1 The previous complex history of the site requires explanation to provide a context for the current application. This is set out below ;
- The site was previously occupied by a narrow four-storey house added to the end of Leopold Terrace in the 1970's. Two separate planning applications were then granted in 2005 and 2006 (Refs 05/P1506 and 06/P2390 for a four storey side extension and conversion into four flats.
  - In 2007, the house was completely demolished . Shortly before the 2006 application lapsed in 2009, the site owners attempted to submit details required by conditions attached to the 2006 permission. They were advised that the 2006 permission to extend and convert could not be implemented as the house had been demolished, and a fresh application would be required.
  - An application was submitted in January 2010 (10/P0106) for a new building of the same general size, height and design as the previous approval for extension and conversion of the previously existing house. The site owners started construction before that application had been determined.
  - The application, recommended for approval, was deferred from June 2010 PAC because it emerged that a small triangle of land included in the application site was part of a neighbour's garden. When a corrected plan was received and re-consulted on, there was an increased level of objection to the development which the then applicants had continued to construct without the benefit of planning permission. A Temporary Stop Notice was served in August 2010, planning permission was eventually refused in June 2011 and an Enforcement Notice was issued in August 2011 requiring the unauthorised building to be demolished, which the then applicants appealed. This appeal was dismissed, with the Inspector concluding that the existing building was not acceptable in terms of its scale,

height, siting, materials and forward projection beyond Leopold Terrace on the Dora Road frontage the resultant impact of this on the streetscene. The Inspector also concluded that these issues could potentially be resolved through alterations to the building and that the applicants would be given 6 months from the date of the decision notice (22<sup>nd</sup> February 2012) to submit, and have considered by the Council, an application with proposed amendments to overcome these issues. The Inspector's appeal decision notice is appended.

- Following the enforcement appeal decision, an application was submitted (12/P1730) as suggested by the Inspector. However, only very minor alterations to the existing building were proposed which were not considered to have addressed the Inspector's concerns. Consequently, the application was refused.

3.2 The site was then purchased by new owners (the current applicants) who sought to work with the Council to develop a scheme to retain the existing building with significant enough alterations to the structure to address the Planning Inspector's and the Council's concerns. The current application is the result of pre-application discussions with the Council to achieve this end.

3.3 The Inspector considered the main appeal issues to be (a) the impact on the street scene, (b) impact on living conditions of 1 Leopold Road, and (c) whether the deficit in private outdoor amenity space could be adequately compensated by a financial contribution for the improvement of public open space elsewhere. He concluded that although the application was acceptable in relation to (b) and (c) subject to suitable conditions to overcome privacy concerns, the impact on the street scene was unacceptable. He highlighted the following as being the main areas of concern in this regard:

- The amount by which the building projects forward of the building line of Leopold Terrace, resulting in a bulky and obtrusive appearance, reinforced by the height and angular flat roof design.
- The excessive use of white render, at odds with the brickwork or mix of brickwork and render on adjoining properties

3.4 The current application proposes the following alterations to the existing building:

- Reduction in the number of flats from 4 to 3
- Significant pulling back of the front building line at all levels
- Pulling back of rear building line at 3<sup>rd</sup> floor level
- Minor reduction in maximum height
- Significant reduction in footprint of fourth floor
- Change in materials to make brick work the dominant material
- Internal reconfiguration
- Creation of small roof terrace for upper duplex unit
- Addition of a single storey side entrance to the block

- 3.5 The pulling back of the front building line of the property and the reduction in the fourth floor footprint would result in 2 x 2-bed flats and 1x 3-bed flat instead of 4x 2/3 bed flats.
- 3.6 In terms of car parking, each unit would be provided with one off-street car parking space. It is also proposed to provide a separate cycle store to the front of the site adjacent to the parking area.
- 3.7 It is proposed to provide a separate bin store to the front of the site adjacent to the parking area.
- 3.8 Additional soft landscaping is also proposed.

4. **PLANNING HISTORY**

13/P0345/NEW - PRE APPLICATION ADVICE FOR MODIFICATION AND ALTERATIONS TO EXISTING BUILDING FOR RESIDENTIAL USE

12/P1730 - ALTERATIONS TO EXISTING BUILDING TO CREATE 4 X 2 BEDROOM FLATS WITH ASSOCIATED PARKING AND LANDSCAPING – Refused, on the following grounds:

1. The proposed amendments to the development do not overcome the issues raised by the Inspector in their Enforcement appeal decision noticed dated 22nd February 2012, in respect of refused application 10/P0106, by virtue of the bulk, scale, height, materials, enlarged front balconies, retention of the internal lift, and siting of the building still significantly forward of the front building line of the adjoining Leopold Terrace and which would still result in an excessively large and overbearing development to the detriment to the visual amenities of the street scene and contrary to policies BE.15, BE.16, and BE.22 of the London Borough of Merton UDP - October 2003, policy CS 14 of the London Borough of Merton Core Strategy - July 2011, the Council's New Residential Development - SPG, policy 3.5 of the London Plan (2011), and the National Planning Policy Framework (2012).

2. The proposed vehicular access to the proposed off-street parking spaces would cross two proposed new parking bays to be laid outside of the site, along Dora Road, and as such the proposed off-street parking would not be implementable or useable and would result in an undue burden on adjoining controlled parking zones. As the development is contrary to policy CS 20 of London Borough of Merton Core Strategy - July 2011.

3. The proposed works would result in the loss of two Lime trees to the front of the site which are subject to a Tree Preservation Order (reference (621) 2012) and are of significant amenity value, and as such the development is contrary to policy CS 13 of the London Borough of Merton Core Strategy - July 2011.

10/P0106 - ERECTION OF A FOUR STOREY BUILDING CONTAINING FOUR 2/3 BEDROOM FLATS – Refused, on the following grounds;



1. The proposed development, by virtue of its bulk, scale, height, plot coverage, and siting significantly forward of the front building line of the adjoining Leopold Terrace, would result in an excessively large and overbearing development to the detriment to the visual amenities of the street scene and would fail to preserve or enhance the character and appearance of the adjoining conservation area. As such the proposed development is contrary to policies BE.3, BE.16, and BE.22 of the London Borough of Merton UDP - October 2003, and the Council's New Residential Development - SPG.
2. The proposed development would provide a substandard form of accommodation, by failing to provide adequate outside amenity space for the proposed 2/3 bedroom flats. The development would therefore be contrary to Policy HS.1 of the Adopted Merton Unitary Development Plan (October 2003) and to the Council's Supplementary Planning Guidance for New Residential Development. INFORMATIVE: Please note that the Council is aware that works have begun on site which do not have the benefit of planning permission and the matter has been passed onto the Council's Enforcement section.
3. The proposed development, by virtue of its bulk, scale, height, and siting significantly forward of the front building line of the adjoining Leopold Terrace, would result in an excessively large and overbearing development to the detriment of the visual amenities and privacy of the adjoining and surrounding properties, particularly 1 Leopold Terrace. As such, the proposed development would be contrary to policy HS.1 and BE.15 of the London Borough of Merton UDP - October 2003, and the Council's New Residential Development - SPG.

The following informative was also added:

INFORMATIVE: Please note that the Council is aware that works have begun on site which do not have the benefit of planning permission and the matter has been passed onto the Council's Enforcement section. Appeal against Enforcement action was dismissed (see Inspector's appeal decision notice).

An appeal against Enforcement action requiring the applicants to demolish the unauthorised building was varied by substituting six months in place of three months as the time for compliance. Subject to this variation the appeal was dismissed and the enforcement notice upheld (See Inspector's appeal decision notice appended).

06/P2390 - ERECTION OF FOUR STOREY SIDE EXTENSION TO EXISTING DWELLING AND CONVERSION OF PROPERTY INTO 4-SELF CONTAINED FLATS (Amendment to planning approval 05/P1506) - Approved

05/P1506 - ERECTION OF FOUR STOREY SIDE EXTENSION TO EXISTING DWELLING AND CONVERSION OF PROPERTY INTO 4 SELF CONTAINED 2 BEDROOM FLATS - Approved

05/P0414 - ERECTION OF FOUR STOREY SIDE EXTENSION TO EXISTING DWELLING AND CONVERSION OF PROPERTY INTO 4-SELF CONTAINED FLATS - Withdrawn by Applicant on design grounds.

5. **CONSULTATION**

The application was advertised by a site notice, press notice, and individual letters to occupiers of properties adjoining the site and in neighbouring roads. 12 objections have been received, and on the following grounds:

- This scheme does not address the key elements on which the previous scheme was refused
- The scale and building lines are not acceptable
- The rear building line needs to be reduced to be more in line with the adjoining terrace
- The adjoining property is enclosed because of the rearward projection of the building
- The height should be reduced further
- Trees to the rear of the site need protecting from building works
- Overlooking to the rear of the development
- The building still dominates the adjoining terrace in terms of its height and scale
- The roof terrace will lead to a loss of privacy for surrounding buildings
- The amount of glazing for the top floor unit is excessive
- The development is too dense for the plot site
- The configuration of the vehicular access would result in safety issues along Dora Road
- Only 3 parking spaces will be provided which will result in increase parking along Dora Road

Wimbledon Society – This application proposes modifications to an existing structure which was the subject of an Enforcement Notice upheld by an Inspector in February 2012 . A previous application to modify the building

(12/P1730) was rejected on the ground that the proposed amendments did not overcome the issues raised by the Inspector.

The main issues raised in the Inspector's Report were:

- projection forward of the building line
- undue bulk, reinforced by excessive height and the angular flat roof
- adverse visual effect on the street scene.
- poor relationship to its surroundings in terms of scale, design, and materials (particularly the excessive use of white render),

The decision notice on 11/P1730 rejected that application on the same grounds, plus the fact that the works would result in the loss of two Lime trees subject to TPO's.

The present application attempts to meet the Inspector's points by omitting the lift structure, by partial setting back the front elevation, and by the use of materials on the front elevation more in keeping with neighbouring buildings. It also appears to allow for the preservation of the two Lime trees on the Dora Road frontage.

However the major requirements set out in the Society's objection to 11/P1730 remain:

- Compliance with building lines. The building would still be well in advance of the building line in Dora Road. There would be no setting back in Leopold Road; where the adverse effect on the street scene identified by the Inspector (and in our objection to 12/P1730) is a key issue. This problem is compounded by the addition of a new ground floor structure bringing the building right up to the back of the Leopold Road pavement. (The excavation required for this would also damage or destroy the roots of the trees on that frontage.)
- The need to reduce the building's bulk. Comparison of the "before and after" views shows that the mass outlines are only slightly different. The changes proposed have little effect here, and height, the overall footprint; and the closeness of the building to Leopold Road mean that bulk remains a problem. The massing of the rear of the building where it encroaches on the trees along Leopold Road is particularly unfortunate.
- The need to reduce height by at least one complete storey. Although it appears that the area of the top storey is somewhat reduced, this is not sufficient to meet the Inspector's criticism of the building in terms of scale and effect on the street scene. Reducing the height of the building would also reduce the degree of overlooking inherent in the current plan. (Evidence given at the inquiry into the Enforcement Notice accepted that omission of the top floor would be practicable.)
- It appears that an attempt will be made to use more acceptable materials for the replacement of the Dora Road frontage, but the large Leopold Road

frontage is unaltered in terms of materials used, and the whole building remains incongruous

In his Report the Inspector recorded his view that it ought to be possible to alter the building to make it acceptable, and that this would be less wasteful of resources than demolition as provided for in the Enforcement Notice. This is a valid consideration, but unless a solution can be found that is in accordance with the Council's established planning policies, full implementation of the Notice must be the only answer.

The Society remains firmly of the view that the application should be refused. We consider that the following changes are required to the building:- reducing its capacity to two flats/maisonettes or preferably a single dwelling (the attempt to cram more units on to the site inevitably increases the danger involved in putting vehicle accesses so close to the Leopold Road/Dora Road junction.

In addition:-

- The frontage to Dora Road to be set back to align with that of Leopold Terrace,
- The frontage to Leopold Road to be set back to accord with the building line laid down before the development of the site in 1963-64)
- The height of building to be reduced (removing the second floor) so that the eaves height is no higher than that of the Terrace.

Unless this can be achieved, the Society's view is as indicate above that the Notice requiring demolition should be enforced.

#### Transport Planning Officer

Leopold Avenue is a predominantly residential road in the Wimbledon Park area of Merton. It is located in Controlled Car Parking Zone (CPZ)-P2(s).

The proposal provides for 3 car spaces for the development accessing from an existing vehicle crossover on Dora Road. To ensure there is minimal impact on the CPZ it is recommended that the development is made permit free secured by S106. There is also cycle parking which should be secured through condition.

In conclusion, there is no transport objection; however the following obligation and condition will apply. The applicant should also be provided an informative below in respect of works affecting the public highway.

#### Tree Officer

No objections subject to conditions in respect of tree protection, site supervision, landscaping, and landscaping implementation being added to any approval.

### Climate Change Officer

- In accordance with Policy CS15 of the Core Planning Strategy we require all new development comprising the creation of new dwellings to achieve Code for Sustainable Homes Level 4. Given that the development has already commenced, it will be incredibly challenging for the site to achieve Code Level 4. The development should register with the BRE and produce a design stage assessment to demonstrate the approach that the development has taken to conform with the requirements of Policy CS15 even if the overall design fails to achieve an overall score of Code 4; specifically:
  - How the development has made effective use of resources and materials and sought to minimise water use and CO2 emissions
  - How the development has sought to make the fullest contribution to minimising carbon emissions in accordance with the energy hierarchy approach of: be lean (use less energy), be clean (supply energy efficiently) and be green (use renewable energy).
  - How the site is designed to withstand the long term impacts of climate change
- Where code certification is not deemed viable, the applicant should supply sufficient evidence of the above to sufficiently demonstrate compliance with Policy CS15.
- In addition, as required under the mandatory elements of Code for Sustainable Homes Level 4, the development should achieve a 25% improvement in the Dwelling Emissions Rate over the Target Emissions Rate under category ENE1 of the Code. The development should also sufficiently demonstrate that they have explored and applied a 'fabric first' approach to mitigating CO2 emissions arising from the development, as advocated by the energy hierarchy outlined above.
- Prior to occupation, we would also require a copy of the completed code certificate as per the standard pre-occupation condition.

### Conservation Officer

No comments.

## 6. **POLICY CONTEXT**

The relevant policies contained within the Adopted Merton Unitary Development Plan (October 2003) are:

HS.1 (Housing Layout and Amenity)

NE.11 (Trees-Protection)

BE.15 (New Buildings and Extensions; Daylight, Sunlight, Privacy, Visual Intrusion and Noise)

BE.16 (Urban Design)

BE.22 (Design of New Development)

BE.3 (Development Adjacent to a Conservation Area)  
C.13 (Planning Obligations for Education Provision)  
F.2 (Planning Obligations)

The relevant policies contained within the Adopted Merton Core Strategy (July 2011) are:

CS 8 (Housing Choice)  
CS 9 (Housing Provision)  
C 13 (Open Space, Nature Conservation, Leisure and Culture)  
CS 14 (Design)  
CS 15 (Climate Change)  
CS 18 (Active Transport)  
CS 20 (Parking, Servicing, and Delivery)

The relevant Supplementary Planning Guidance's (SPGs) are:

New Residential Development - SPG  
Planning Obligations – SPD  
Design - SPG

London Plan 2011:

3.3 (Increasing Housing Supply];  
3.4 (Optimising Housing Potential];  
3.5 (Quality and Design of Housing Developments)  
3.11 (Affordable Housing Targets)  
3.12 (Negotiating Affordable Housing on Individual Private Residential and Mixed Use Schemes)  
5.7 (Renewable Energy)  
7.4 (Local Character)  
7.6 (Architecture)  
8.2 (Planning Obligations)

London Housing Design Guide (2012)  
National Planning Policy Framework (2012)

## 7. **PLANNING CONSIDERATIONS**

### 7.1 Key Issues

- 7.2 The history leading up to the submission of this application is set out earlier in this report. The current applicants bought the site after the existing unauthorised structure had been built and after the enforcement appeal and have had discussions with Council officers in order to seek to satisfactorily address the Inspector's grounds for refusal.
- 7.3 Although the Inspector considered the current structure to be unacceptable in terms of its impact on the streetscene, he made reference to the range of options put forward at the appeal to alter the building to make it acceptable

without demolishing the whole structure, including a reduction in the top floor and a reduction in the forward facing projection facing Dora Road. He indicated that it ought to be possible to alter the building to make it acceptable, and advised that in order to avoid the requirement to demolish, a scheme should be prepared that had particular regard to the reasons given in his decision notice for the refusal of planning permission for the existing building. As set out earlier, these reasons related to the impact on the streetscene, more specifically:

- The amount by which the building projects forward of the building line of Leopold Terrace, resulting in a bulky and obtrusive appearance, reinforced by the height and angular flat roof design.
- The excessive use of white render, at odds with the brickwork or mix of brickwork and render on adjoining properties

The sections below set out how these issues have been addressed.

#### 7.4 Impact on Streetscene-Design, Scale, Siting, Height, and Massing

7.5 Policies BE.16 and BE.22 of the UDP and policy CS 14 of the Core Strategy seek to ensure that new developments are of high quality design and which relate to their surroundings.

7.6 The Inspector determining the enforcement appeal raised the issues of the height, massing, and forward projection of the building with particular reference to the projection forward of the building line of Leopold Terrace on Dora Road. The existing building broadly follows the building line of Leopold Terrace for 4m before stepping out 2.85m beyond with a projecting bay then steps back slightly towards the corner with Leopold Road. It is proposed to demolish this forward projection and rebuild it, pulling it back by 1.85m for the main bay and 1.31m for the section beyond, with the result that the building would project only 1m beyond the adjoining building line 4m away from Leopold Terrace. Although the rear building line has remained the same, it projects only 0.9m rearwards of no.1 and was not an issue raised by the Inspector.

7.7 In addition, although the maximum height of the development will only be marginally lower, the footprint of the 4<sup>th</sup> floor has been very significantly reduced through set-backs to the front, side and rear, and the loss of the external lift riser. This reduction in footprint is significant enough to reduce the total number of flats from 4 to 3.

7.8 In relation to the Inspector's concern about the excessive use of white render, the new front elevation to Dora Road (resulting from the part demolition and re-siting of the front bay) will be constructed in brick, with only a small section of render remaining. On the partially retained side/rear elevation to Leopold Road, the majority of the render will be replaced by brick slips to match the front elevation. Consequently, the principal material will become brick with



small render elements. A condition requiring sample materials would be imposed.

7.9 The proposed changes, combining a reduction in forward projection with the setting back of the fourth floor and a principally rendered to a principally brick building, are considered to suitably address the Inspector's concerns regarding impact on the street scene

#### 7.11 Residential Amenity

7.12 The enforcement appeal Inspector considered the impact of the existing building on the living conditions of the occupiers of 1 Leopold Terrace with particular regard to privacy, the effect on daylight and sunlight and visual amenity. He found the impact to be acceptable in terms of daylight, sunlight and outlook. He expressed concern about inter-visibility from the side facing window of the bay and the front habitable rooms of No 1 Leopold Terrace. The proposed revisions result in the removal of these side windows as part of the significant reduction in the size of the bay, which will now have a solid brick side wall of limited depth.

7.13 The Inspector did not consider any overlooking from the north-west facing windows of the flat bedrooms to significantly affect existing low levels of privacy to the back garden of 1 Leopold Terrace,. They could be obscure glazed if considered necessary as the bedrooms would also retain south-west facing clear glazed windows.

7.14 The proposed roof terrace for the 3-bed maisonette on the two upper floors created by utilising part of the set back of the upper floor is considered acceptable in privacy terms because it would be small in size and would be set approximately 25m from the nearest properties on would not directly look into any nearby residential dwelling.

7.15 In light of the alterations proposed, it is considered that the resultant development would not result in a detrimental impact on the amenities of the occupiers of the adjoining and surrounding properties.

#### 7.17 Standard of Residential Accommodation and Amenity Space

7.18 The flats are 2 bed/4 person and 3 bed/6 person and comply with the guideline gross internal area given in table 3.3 of the London Plan 2011.

7.19 The stacking of the units is considered acceptable and the units are all dual aspect and so would receive adequate levels of daylight/sunlight.

7.20 Policy HS.1 includes the objective that new residential developments should provide adequate private or communal amenity space, based on a standard for flats of 10sq.m per habitable room. There would be a small garden space for the ground floor flat and a roof terrace for the maisonette development but there would be a shortfall in private amenity space as for the existing unauthorised development. The previous appeal Inspector considered that a

financial contribution towards the upgrade of public open spaces to offset the shortfall would be appropriate. In addition, he considered the planning history to be relevant and considered that it would be unreasonable to make the issue of private amenity space an insurmountable obstacle at this stage..

7.21 A condition would be added to any approval requiring the unit to be built to Lifetime Homes standards.

7.22 Landscaping

7.23 No trees will be affected by the proposed revisions and new soft landscaping is proposed on the footprint of the existing projecting bay.

7.24 The Council's Tree Officer has assessed the scheme and has no objections subject to conditions in respect of tree protection, site supervision, landscaping, and landscaping implementation being added to any approval.

7.25 Parking and Highways/Refuse Storage

7.26 Three parking spaces are proposed for the 3 flats in addition to bike storage. The parking standards contained within Schedule 6 of the UDP are maximum standards and should therefore not be exceeded unless it can be demonstrated that a higher level of parking is needed. The site has a high PTAL rating and is located within a CPZ (W3). The Inspector considered the adequacy of the parking as part of the enforcement appeal and concluded that 1 parking space per flat combined with a legal agreement preventing future occupiers from obtaining residential parking permits for on-street parking would prevent undue pressure being placed on limited on-street parking spaces.

7.27 As part of the proposal there would be the loss of at 3 off-street parking spaces and it is proposed to provide some cycle storage adjacent to the car parking area. Exact details can be required to be submitted to the Local Planning Authority for approval prior to development commencing, through a condition added to any approval.

7.29 A refuse storage area is also proposed adjacent to the car parking area. Exact details can be required to be submitted to the Local Planning Authority for approval prior to development commencing, through a condition added to any approval.

7.30 Local Financial Considerations

7.31 The proposed development is liable to pay the Mayoral Community Infrastructure Levy, the funds for which will be applied by the Mayor towards the Crossrail project. The CIL amount is non-negotiable and planning permission cannot be refused for failure to agree to pay CIL.

8 SUSTAINABILITY AND ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS

- 8.1 Given the history and the need to adapt and principally reduce the size of an existing structure it is not considered reasonable to require that the development achieve Code for Sustainable Homes 'Level 4' rating.
- 8.2 The proposal does not constitute Schedule 1 or Schedule 2 development. Accordingly there is no requirement for an EIA submission.

9. **SECTION 106 LEGAL AGREEMENT**

- 9.1 Core Strategy policy CS 8 requires an affordable housing contribution on sites providing between 1-9 units where there is a net increase in the number of units and as such, a contribution will be required in this instance (£88, 336).
- 9.2 The proposed development would attract a financial contribution towards education in the borough as required by policy C.13 of the UDP since it would be likely to result in the need for additional educational provision resulting from the increase from formerly one house on the site to 2 x 2 bed and 1 x 3 bed flats.
- 9.3 There is a deficiency in private amenity space provided for the development and in line with the Council's New Residential Development SPG and Planning Obligations SPD; a financial contribution is required in lieu and to be used for the maintenance of nearby public space (£7,320).
- 9.4 The residential units are required to be 'permit free'.
- 9.5 Further information in respect of the above, including details of supplementary research carried out in justification of the S106 requirements, can be viewed here:

<http://www.merton.gov.uk/environment/planning/s106-agreements.htm>

10. **CONCLUSION**

- 10.1 This scheme is considered to have addressed the enforcement appeal Inspector's specific grounds for refusal in terms of impact on the streetscene. The Inspector considered it possible and less wasteful to alter to make the building acceptable rather than requiring total demolition. The current site owners are not responsible for the unauthorised building, having purchased it after the appeal, but have worked with the Council to seek to meet the Inspector's requirements. The proposed alterations are considered to be acceptable in both design and neighbour amenity terms.
- 10.2 Accordingly, it is recommended that planning permission be granted subject to a S106 legal agreement and conditions below.

## **RECOMMENDATION**

### **GRANT PLANNING PERMISSION**

Subject to a S106 legal agreement with the following heads of terms:

1. The provision of a financial contribution towards affordable housing (£88, 336 )
2. The provision of a financial contribution towards education (£19, 808.91)
3. The provision of a financial contribution towards the maintenance of public amenity space (£7, 320).
4. The developer agreeing the proposed flats being 'permit free' and not eligible for on-street parking permits.
5. The developer agreeing to meet the Council's costs of preparing drafting and monitoring the Agreement.

And the following conditions:-

1. Commencement of development (full application).
2. A7 Approved Plans
3. B1 External Materials to be Approved
4. B4 Details of Surfacing
5. B5 Details of Walls/Fences
6. B6 Levels
7. C.2 No Permitted Development (Windows and Doors in first, second, and third floors)
9. C6 Refuse and Recycling
10. C7 Refuse & Recycling (Implementation)
11. D9 No external Lighting
12. D11 Construction Times
13. F1 Landscaping

14. F2 Landscaping (Implementation)
15. F5P Tree Protection
16. F8 Site Supervision
17. F9 Hardstandings
18. H4 Provision of Vehicular Parking
19. H6 Cycle Parking (Details to be Submitted)
20. H7 Cycle Parking (Implementation)
21. J1 Lifetime Homes

Informatives:

Note 1 to applicant

INF12 (Works affecting public highway)

INFORMATIVE to advise applicant that the enforcement notice requiring total demolition can be invoked unless an agreed timetable to carry out the works hereby approved is agreed with the Council's enforcement section

The proposal accords with policies contained in the Council's Adopted Unitary Development Plan (October 2003), the Council's Adopted Core Strategy (July 2011), and the London Plan (February 2011). The policies listed below were relevant to the determination of this proposal:

Adopted Merton Unitary Development Plan (October 2003)

The relevant policies contained within the Adopted Merton Unitary Development Plan (October 2003) are:

- HS.1 (Housing Layout and Amenity)
- NE.11 (Trees-Protection)
- BE.15 (New Buildings and Extensions; Daylight, Sunlight, Privacy, Visual Intrusion and Noise)
- BE.16 (Urban Design)
- BE.22 (Design of New Development)
- BE.3 (Development Adjacent to a Conservation Area)
- C.13 (Planning Obligations for Education Provision)
- F.2 (Planning Obligations)

Adopted Merton Core Strategy (July 2011):

CS 8 (Housing Choice)  
CS 9 (Housing Provision)  
C 13 (Open Space, Nature Conservation, Leisure and Culture)  
CS 14 (Design)  
CS 15 (Climate Change)  
CS 18 (Active Transport)  
CS 20 (Parking, Servicing, and Delivery)

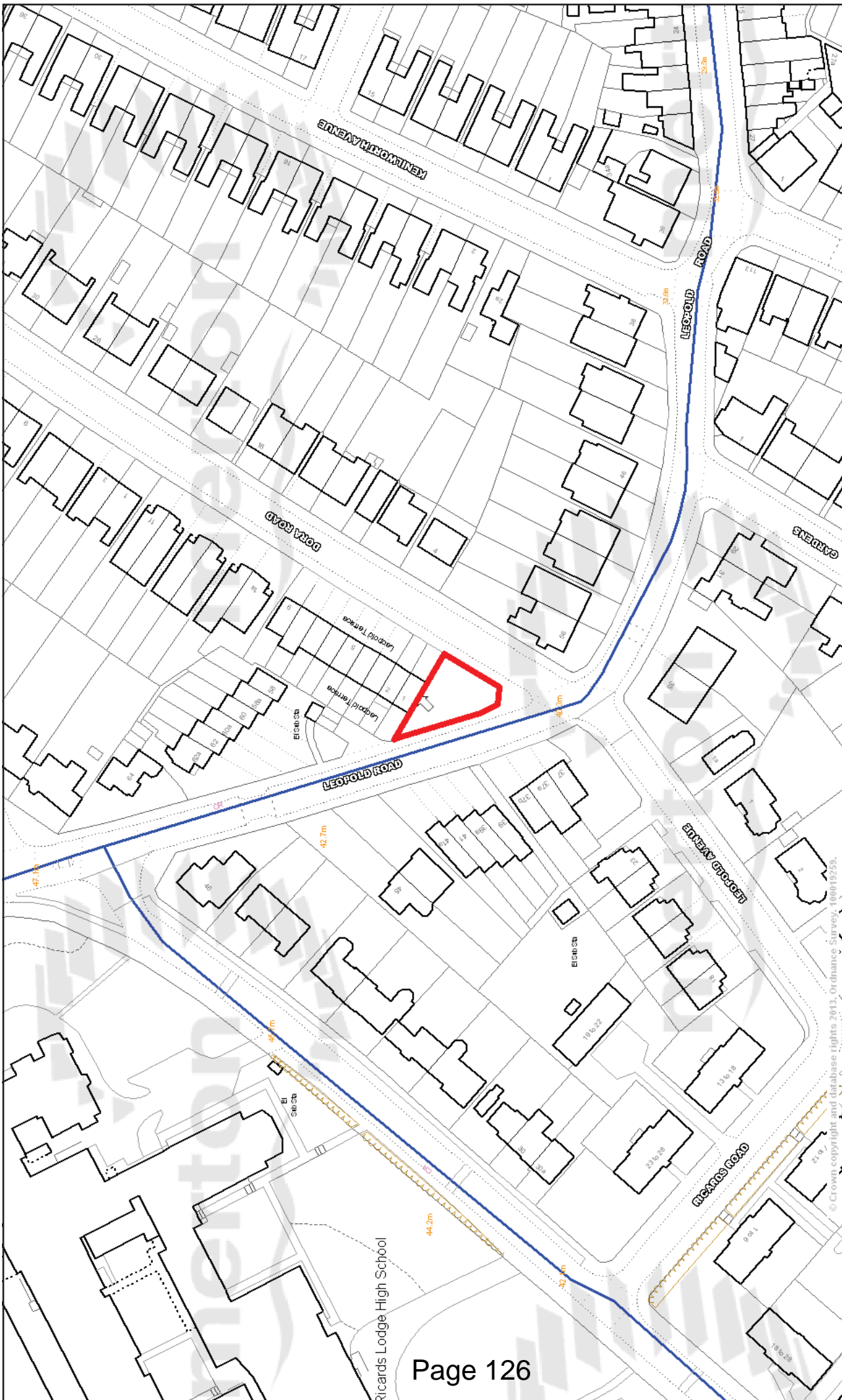
Supplementary Planning Guidance's (SPGs):

New Residential Development - SPG  
Planning Obligations – SPD  
Design - SPG

London Plan 2011:

3.3 (Increasing Housing Supply];  
3.4 (Optimising Housing Potential];  
3.5 (Quality and Design of Housing Developments)  
3.11 (Affordable Housing Targets)  
3.12 (Negotiating Affordable Housing on Individual Private Residential and Mixed Use Schemes)  
5.7 (Renewable Energy)  
7.4 (Local Character)  
7.6 (Architecture)  
8.2 (Planning Obligations).





London Borough of Merton  
 100 London Road  
 Morden  
 Surrey  
 SM4 5DX

Scale 1/1250

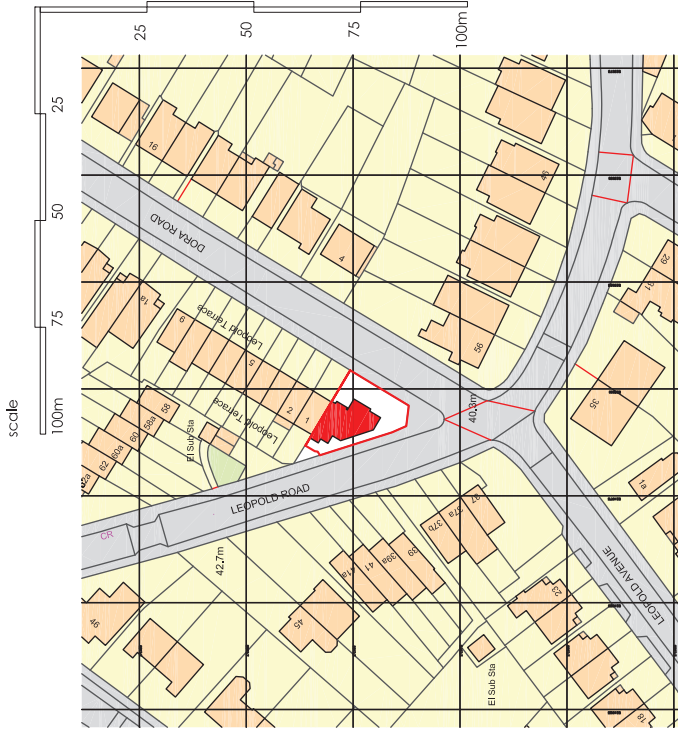
Date 26/11/2013

1A Leopold Terrace

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DEVELOPMENT CONTROL





site location plan - 1:1250 scale (site shown in red)

REV A ISSUED FOR PLANNING

10.07.2013

**h2 architecture**

12 LADDERSTILE RIDE KINGSTON-UPON-THAMES KT2 7LP T. 0845 063 0880

PROJECT 0242

1a leopold terrace, dora road, wimbledon sw19 7ey

CLIENT

moez saju

**proposed** (dwg no.0242\_p001)  
location and block site plan

SCALE

DATE

DRAWN

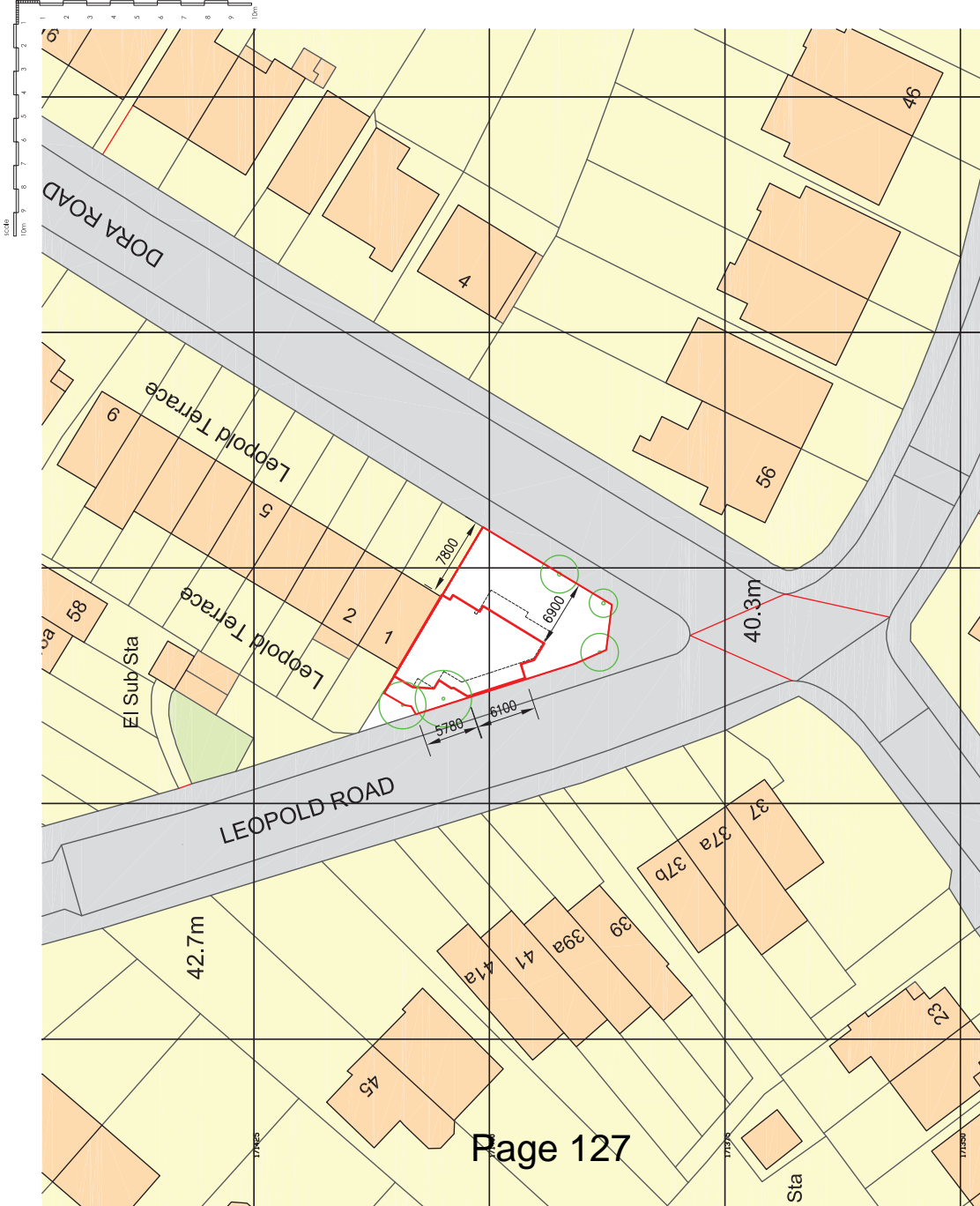
REVISION

1:1250/500@a3

july 2013

mh

a



block site plan - 1:500 scale (proposed outline of building shown in red, existing shown in dotted)















London Borough of Merton

2 AUG 2013

Planning Development Control

3D images



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Planning Development Control

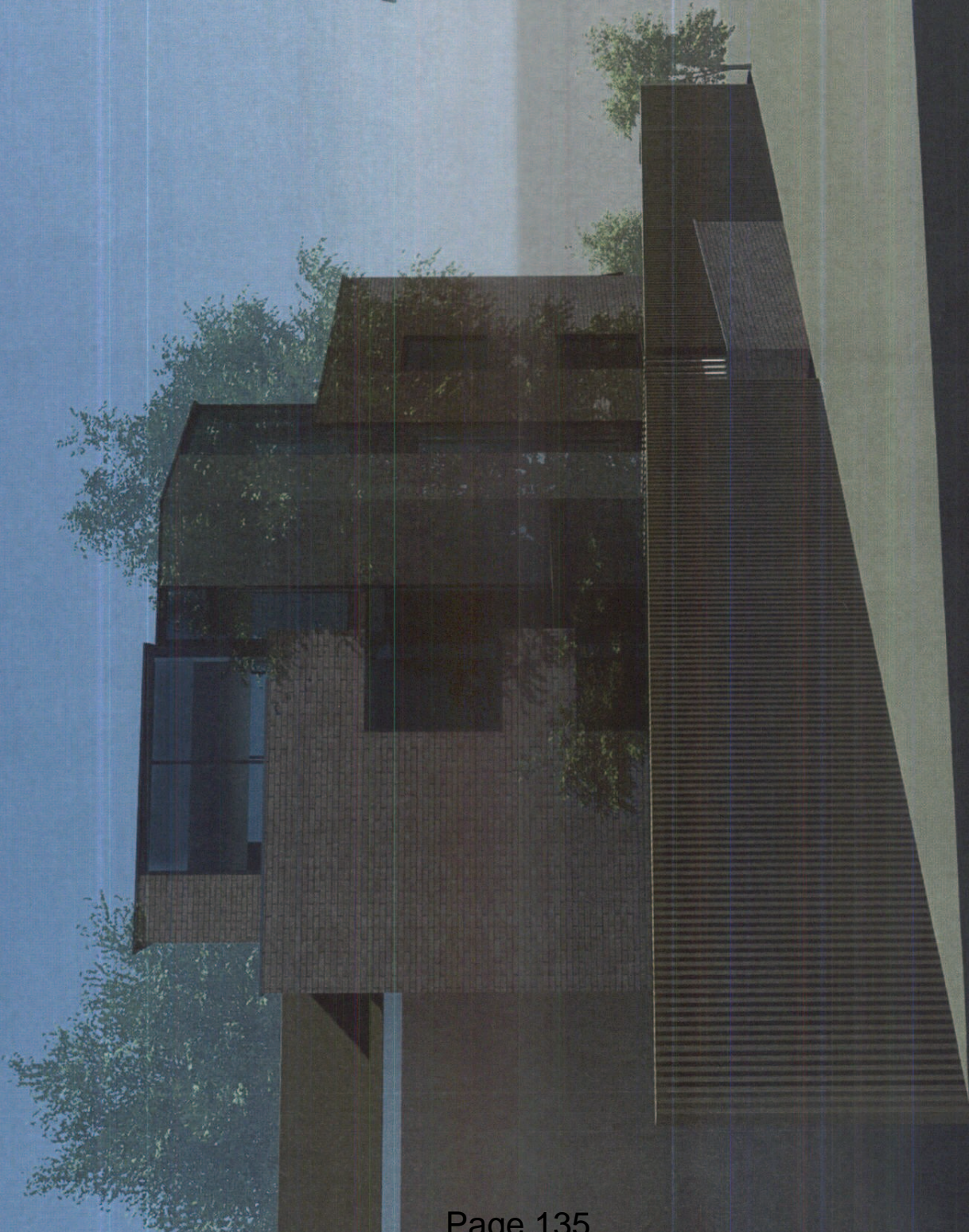




London Borough of Merton

- 2 AUG 2013

Planning Development Control







proposed 3D massing



existing photo 1



existing photo 2





proposed 3D massing



existing photo 1



existing photo 2





proposed 3D massing



existing photo





proposed 3D massing



existing photo 1



existing photo 2



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# Appeal Decision

Inquiry opened on 7th February 2012

Site visit made on 7th February 2012

**by Clive Whitehouse BA(Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22 February 2012**

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**Appeal Ref: APP/T5720/C/11/2160816 & 17**  
**1A Leopold Terrace, Dora Road, London SW19 7EY**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Victor and Mrs Oxanna Gavrilouk against an enforcement notice issued by the Council of the London Borough of Merton.
  - The notice was issued on 12<sup>th</sup> August 2011.
  - The breach of planning control as alleged in the notice is: without planning permission, erection of a block of flats consisting of four self-contained residential units.
  - The requirements of the notice are (a) permanently demolish the block of flats constructed on the land. (b) Remove all debris and waste resulting from compliance.
  - The period for compliance with the requirements is three months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
  - The inquiry sat for 3 days on 7, 8 and 9 February 2012.
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## Decision

1. The enforcement notice is varied by substituting six months in place of three months as the time for compliance in paragraph 5. Subject to this variation the appeal is dismissed and 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.

## Procedural Matter

2. Appeals on grounds (b) and (c) were withdrawn shortly before the inquiry. The appellants accept that although the existing building is very similar to a scheme for which planning permission had previously been granted, the "as built" development does not have planning permission.

## Background

3. The appeal concerns a four-storey building in a corner position, attached to a terrace of modern, three-storey town houses. At the time of the inquiry the shell of the building had been completed, but it had not been glazed or fitted out internally. The development is intended to provide four two-bedroomed flats.
4. Both parties refer to the "unfortunate planning history" of the site, which has contributed to the present situation, and I consider it necessary to summarise the sequence of events at the outset. The appellants were described at the inquiry as experienced builders but it was explained that, coming from a



- different culture, they had relied on their advisors and the Council to negotiate their way through the intricacies of English planning legislation.
5. The site was previously occupied by an unusually narrow four-storey house that had been added to the end of Leopold Terrace in the 1970s. In 2005 planning permission was granted for a four-storey side extension to that house and conversion of the property into four flats. The appellants bought the site with the benefit of that permission but in 2006 submitted a planning application for a larger scheme. Planning permission for that scheme was granted in November 2006, subject to conditions (the 2006 permission), and it was again described as a "four storey side extension to existing dwelling and conversion of property into 4 self contained 2/3 bedroom flats".
  6. In 2007 the appellants completely demolished the house on the site (with the exception only of a small section of a rear wall that forms a party boundary with the garden of the neighbouring house), and the site was left in that condition for about 2 years.
  7. Shortly before the 2006 permission was due to lapse in November 2009, the appellants applied for approval of the details required by conditions (external materials, site layout and tree protection measures). The Council did not approve those details but instead informed the appellants that the 2006 permission could no longer be implemented because the original house had been demolished, and the scheme could not be regarded as an extension and conversion. The appellants were advised to submit a new application for a block of flats as a "new build" development, and in January 2010 an application was submitted with drawings showing a building of the same size, height and general design as had previously been permitted.
  8. The appellants started constructing the building whilst that application was under consideration. In June 2010 a Council Planning Officer prepared a report for the Planning Committee recommending that planning permission be granted, but the report was deferred before being considered because it had emerged that a small triangle of land that had been assumed to be part of the application site was in fact part of the garden of the neighbouring house. The 2006 permission had also included that land as part of the application site. Although that triangle of land was not of great significance to the layout in physical terms, it is one of the factors that led to the conclusion that the 2006 planning permission could not be implemented in the precise terms in which it had been granted. I note that the builders did adapt the building under construction by reducing the ground floor area to draw it away from the revised site boundary.
  9. Following the submission of the corrected application site plan, the Council re-consulted local residents more widely than it had done at earlier stages; by which time residents could see the size and forward projection of the building taking shape. This resulted in an increased level of objection. In August 2010 the Council served a Temporary Stop Notice, which halted construction work for a month, after which work resumed. Planning permission was eventually refused in June 2011 and the enforcement notice was issued in August 2011.
  10. One of the reasons given for the refusal of the application and the issuing of the notice was the detrimental effect of the building on the street scene by virtue of its bulk, scale, height and siting forward of the building line of the adjoining Leopold Terrace (the street scene issue). Following the appeal and

an exchange of pre-inquiry statements, the Council indicated in December 2011 that it would not rely on that reason at the inquiry.

11. Some work continued on the building after the enforcement notice was issued, including the application of white render to most of the external walls. The scaffolding and plastic sheeting that had enclosed the building was removed in late 2011. I will consider the deemed planning application as being for the building as it existed at the time of the inquiry.

### **Main Issues**

12. Although the Council did not take issue at the inquiry with the size, height and forward projection of the building in the street scene, The Wimbledon Society and a Planning consultant engaged by a group of local residents submitted written and oral evidence on the point. I indicated at the inquiry that I consider that the effect of the building in the street scene remains a main issue, notwithstanding the Council's late withdrawal of its objection on that ground.
13. The second main issue is the effect of the building on the living conditions of the occupiers of 1 Leopold Terrace with particular regard to privacy, the effect on daylight and sunlight and visual amenity.
14. The third main issue is whether the deficit in the provision of private outdoor amenity space for future residents of the flats can be adequately mitigated by a financial contribution for the improvement of public open space elsewhere.
15. The Council is satisfied that the issues of on-street parking, and financial provision for education and affordable housing, which are cited amongst the reasons for issuing the notice, have been dealt with by a Unilateral Undertaking submitted by the appellants at the inquiry. For that reason I do not regard those matters as main issues. A supplementary Unilateral Undertaking was submitted shortly after the close of the inquiry to address an issue raised concerning notification of any changes in ownership and contact details.

### **Effect on the Street Scene**

16. I will first assess the impact of the building in the street scene, based on the evidence and opinions of the parties and local residents and my own impressions. I will then assess the weight to be accorded to the planning history of the site as a material consideration in support of the existing building, before balancing all the considerations.
17. The visual impact of the development in its context inevitably involves a measure of subjective judgement, as evidenced by the differing opinions of the Council's Planning Officers at different stages. Also, it can be difficult to visualise the impact of a building accurately from standard application drawings, especially when the drawings do not show the building in its context, as was the case with the 2006 application. I have the advantage of being able to see the largely finished external appearance of the building in the street scene.
18. Development plan policies include the saved policies of the Merton Unitary Development plan (UDP). Policy BE.22 concerns the design of new development and requires that new buildings respect the siting, rhythm, scale density, proportions and local distinctiveness of the adjoining townscape. A

supplementary planning guidance note issued by the Council in 1999 for New Residential Development (1999 SPG) provides more detailed guidance. The section headed "Respecting Local Character" advises that new development should contribute positively to the character of its context, and that this requires building line continuity, expression of vertical and horizontal rhythms, regard to adjacent building heights and the use of quality detailing and materials. In respect of corner sites, the advice is that because of their visual prominence special design considerations are needed.

19. The development is described on behalf of the appellants as having an "unashamedly contemporary design" very similar to that previously approved and consistent with the mixed architectural character of the local area.
20. The development occupies an almost triangular site at the junction of Dora Road and Leopold Road. The building is one storey taller than the modern terrace to which it is attached and about 0.8m higher than shown on the 2006 scheme drawings. The flat roof design increases the bulk of the building where it rises above the pitched roof of the adjoining house. The front elevation follows the building line of Leopold Terrace for about 4m before stepping out by about 2.7m with a projecting bay and a side-facing window. The side elevation is set about 1.5m from Leopold Road, and the rear projects by 0.8m beyond the rear elevation of the house at 1 Leopold Terrace. The gable wall where it rises above the terrace is in brickwork with a small return at the corner, but otherwise the walls of the building are finished in white render. When completed the front elevation would have large windows and the upper floors would have small balconies.
21. From the submitted photographs, the four-storey house previously on the appeal site was oddly upright and narrow, but much smaller than the present building. The Council confirms that there is no objection to the loss of the original house.
22. The site is in a mixed residential area with houses ranging in style between Edwardian, inter-war semi detached and detached, 1960s terraces and modern infill development. Leopold Terrace dates from the 1960s and is finished with buff brick and a pitched roof. There is one nearby development on the opposite side of Leopold Road which bears some similarity to the appeal building. That is a staggered, three-storey development of town houses finished in white render, but it differs from the appeal building in being set well back from the road on the building line and it is less bulky, since the upper floors are recessed.
23. The older residential areas higher up the hill to the north are covered by two Conservation Area designations. The appellant draws attention to an assessment report prepared by the Council in 2007 when considering whether to extend one of the Conservation Areas. The report concluded that the area in the vicinity of the appeal site was not worthy of inclusion in the Conservation Area. In respect of the nearby section of Leopold Road (including the town houses referred to above) the report refers to the mix of post-war development and comments that "the general level of architectural interest of buildings in this area is low, in some cases very low". Whilst that is no doubt a fair assessment by Conservation Area standards, my impression of the wider area around the appeal site, including Leopold Terrace and Dora Road is that it has a pleasant, mixed suburban character.

24. The amount by which the building projects forward of the building line of Leopold Terrace in my view results in an obtrusive and unduly bulky appearance to the building. I saw that there is a distant view of central London to the north east along Dora Road, and it would appear that the forward projection is, in part at least, intended to capture that view with side-facing living room windows to the upper floor flats. The bulky impression of the building is reinforced by its height and angular flat roof design. Furthermore, the use of white render as the main finishing material is in my view excessive and at odds with the brickwork or the mix of brick and render on most nearby houses. It appears to me that the block has been designed primarily to maximise floorspace and the views from the upper floors. In my assessment this has resulted in an overly bulky building on the plot that is poorly related in terms of scale, design and materials to its surroundings.
25. Notwithstanding the Council's late withdrawal of its case on this issue, I agree with the views expressed by the Wimbledon Society and the representations made by and on behalf of local residents at the inquiry concerning the adverse visual impact of the building in the street scene.

### **Weight to be accorded to the Planning History**

26. It was argued strongly on behalf of the appellants that they have erected a building that is almost indistinguishable from what the Council had approved in the past. It is contended that it would be unreasonable and unjust to require the building to be demolished because the Council had changed its mind, especially since the Council has changed its mind back again on the street scene issue after the notice was issued. I accept that the planning history is an important material consideration in this case.
27. It is a matter of record that the Council granted planning permission in 2006 for a scheme with a similar external appearance to the present building, albeit that some elements of the original house were to be incorporated. Correspondence shows that planning officers at the time had supported the principle of a forward projection for the extended part, in the expectation that it would allow the building "to turn the corner" in architectural terms, but my own view is that this has not been successfully achieved. I note from the submitted correspondence and 2006 decision notice that the use of white render as the external finish was never supported or approved by the Council.
28. The appellants accept that, by a combination of factors, the 2006 planning permission has lapsed and can not now be implemented. Briefly, those factors were the complete demolition of the original house; the variations between the 2006 scheme and the present building and the fact that the land under the appellants' control is smaller than was shown on the 2006 application plan. Also, the pre-commencement conditions of the 2006 permission were not fully discharged before the permission lapsed. The consequence is that the 2006 planning permission does not have the force of a fall-back position, and the Council was free to make a different judgement, as it did in refusing the similar set of plans in 2011.
29. I can understand that the appellants might have thought that the revised planning application they submitted in January 2010 would be little more than a formality, given its similarity to what had gone before, but they were nevertheless taking a risk in starting to erect the new building without planning permission. The degree of risk increased significantly when it became obvious

after the deferral of the committee report in June 2010 and the issue of the Temporary Stop Notice in August 2010 that the Council had serious reservations about the scheme. The decision to continue with construction works after that point and even after planning permission was refused and the enforcement notice was issued, puts that work entirely at the appellants' risk.

### **Conclusion on the Effect on the Street Scene**

30. I consider that the adverse effect of the existing building on the street scene is significant and contrary to the objectives of UDP policy BE22 and the advice in the 1999 SPG. I have given careful consideration to the twists and turns of the planning history but I have concluded that the weight that can be accorded to that consideration is not sufficient to justify the retention of the building in its present form, and the continuing harm to the street scene that would result. I conclude on the first main issue that the existing building unacceptably affects the street scene.

### **Effect on Living Conditions of the Neighbouring Occupiers**

31. The Council contends that the size and design of the building is overbearing and unacceptably affects the living conditions of the occupiers of 1 Leopold Terrace with particular reference to visual amenities and privacy. The effect on daylight and sunlight is not specifically referred to in the reasons for issuing the notice, but has been addressed by the parties. UDP policy HS1 includes the requirement to safeguard privacy and to maintain adequate daylight and sunlight.
32. There is inter-visibility at a narrow angle between the side-facing window of the front projection and the front habitable rooms of No.1 Leopold Terrace. From my site inspection, there are small areas within both the bedroom and living room which are overlooked at a distance of only about 7m from the side living room windows of the upper floor flats. If not addressed, this would cause an unacceptable loss of privacy. The appellants therefore propose to partly obscure glaze the offending windows. They estimate that it is only possible to look into the front rooms of No.1 whilst standing against the outer third of the side window and they propose to obscure glaze that part whilst leaving the inner two thirds clear glazed (so as to retain the view of central London).
33. To the rear there is a north west facing bedroom window to each of the upper flats which gives a view down into the small rear garden of No.1. The rear gardens of Leopold Terrace are not private, since each is fully overlooked from the upper windows of neighbouring houses. The new building adds to the number of overlooking bedroom windows, but it does not in my estimation significantly affect the already low levels of privacy in the back garden. The appellants have nevertheless offered to obscure glaze the north west facing bedroom windows, leaving south west facing clear glazed windows available.
34. If the development were otherwise acceptable, I consider that a planning condition could be devised that would prevent an unacceptable loss of privacy for the occupiers of 1 Leopold Terrace. However, I consider that the need to introduce areas of obscure glazing into habitable room windows within the new development is an indication of a design failure.
35. The appellants' consultants have carried out an assessment of the effect of the forward projection of the block on daylight and sunlight reaching the front habitable rooms of No.1, using the advice and methodology in the BRE



publication "Site Layout Planning for Daylight and Sunlight". The results show that the block reduces the sunlight reaching the nearest first floor window by about 55 minutes per day (the relevant date for BRE guidance is 21<sup>st</sup> March), but the window can still receive more than 6 hours sunlight a day at that time of year, which is far in excess of the minimum standard recommended. A similar exercise has been carried out in respect of daylight. The Council does not challenge the technical assessment, and I consider that the forward projection of the block does not result in an inadequate amount of daylight and sunlight reaching the front habitable room windows of No.1 Leopold Terrace.

36. By the same methodology, the rear projection of the block by 0.8m beyond the rear wall of No.1 does not have a significant effect on daylight and sunlight to the rear-facing rooms. The block has a somewhat greater overshadowing effect of the back garden than the former four-storey house, but the orientation of the rear elevation of the terrace towards the north west is such that the back gardens already have limited sunlight except in the late afternoons. The small back garden is also shaded by evergreen trees at the corner of the appeal site and within the garden of No.1. The appellants' analysis using the Sun on Ground Indicator in the BRE guidance indicates that the garden receives more than the recommended minimum sunlight. I consider that the building does not unacceptably reduce the daylight and sunlight reaching the back garden of No.1 Leopold Terrace.
37. There is no methodology for assessing the question of overbearing appearance. From my visit, the building is only visible from within the habitable rooms of No.1 at acute angles from small areas of the rooms and I do not consider it to be overbearing in relation to the use of those rooms. From the front garden of the house the building does appear to "loom large", but I consider that there is a gradation and overlap between the perception of the building from outside the house and its wider perception in the street scene. I therefore regard "overbearing appearance" as being part of the effect of the building in the street scene, and dealt with under the first main issue.
38. I conclude on the second main issue that the building causes no unacceptable effects on the living conditions of the occupiers of 1 Leopold Terrace that could not be adequately addressed by conditions.

### **Deficiency in Outdoor Amenity Space**

39. Policy HS.1 includes the objective that new residential developments should provide adequate private or communal amenity space, based on a standard for flats of 10sq.m per habitable room. Further guidance on the provision of such space is given in the Council's 1999 SPG on new residential development.
40. The development does not include any useable communal outdoor amenity space and the private space would consist of two small front patios for the ground floor flat, and balconies for the upper flats. It is common ground that the scheme is deficient in outdoor private amenity space.
41. The Council also considers the ground floor patios to be of poor quality because of their lack of privacy and position facing the road and car park.
42. There is a proviso to policy HS.1 that in high density developments where the standard can not be achieved the Council will seek to reach an agreement for a financial contribution to upgrade nearby off-site amenity space. The appellants' Unilateral Undertaking makes provision for the payment of a sum of

money for that purpose, calculated according to the Council's standard formula. The appellants draw attention to ten recent planning permissions where residential development has been permitted with an outdoor amenity space shortfall, subject to a payment for off-site upgrading of open spaces.

43. The Council considers on balance that that a financial contribution in this case would not overcome the deficiency because there are no nearby public open spaces that would be reasonably accessible to the occupiers of the flats. The two nearest public open spaces are 950m and 1000m from the appeal site, unlike the instances referred to by the appellants, where there are open spaces between 200m and 500m away. The Council refers to a number of appeal decisions where increasing emphasis has been placed on the importance of private outdoor amenity space.
44. I consider that a purpose-built block of four flats is capable of being considered as a high density development where it would be difficult to meet the desired private open space standard on site and where a financial contribution would be appropriate. The public open spaces which could be upgraded with the money offered are not conveniently located, but neither are they so distant that they would be unlikely to be used at all by future residents.
45. On this issue the planning history is also a material consideration. It is significant that the same amount of on-site amenity space was accepted as adequate in 2006 without any financial contribution and that the Council's committee report of June 2010 stated that a financial contribution would overcome the on-site deficiency of private amenity space. I consider that it would be unreasonable to make this issue an almost insurmountable obstacle at this stage.
46. Taking all the material considerations into account, I conclude on the third main issue that the financial contribution for off-site upgrading of public open spaces offered as part of the Unilateral Undertaking would adequately compensate for the deficiency of on-site private amenity space.

### **Other Matters**

47. Some concerns have been expressed about the adequacy of car parking for the flats. The 2006 permission would have provided 3 parking spaces for the four flats and the appellants have produced a revised layout for the appeal which could accommodate four spaces, subject to the Council's agreement. The site is within a zone where on-street parking is strictly controlled and certain spaces are reserved for resident permit holders during controlled hours. The appellants' Unilateral Undertaking would prevent future occupiers from obtaining residential parking permits for on-street parking. The Council accepts, and I agree, that the combination of on-site spaces and the terms of the undertaking would prevent undue additional pressure being placed on limited on-street parking spaces.
48. Some local objections are to the principle of the development of flats, as opposed to family houses in this neighbourhood, but that is not an objection supported by the Council. The Council's Core Strategy adopted in 2011 includes policy CS8 and the objective to "seek the provision of a mix of housing types and sizes and tenures at a local level to meet the needs of all sectors of the community". The provision of flats on the site is consistent with that objective and would make a useful contribution to the need for housing.



49. The parties have agreed the level of financial contributions necessary to address the provision of affordable housing and education services, and those are included in the completed Unilateral Undertaking made under section 106 of the Act and submitted at the inquiry and the supplementary undertaking, and I take those into account.

### **Conclusion on the Ground (a) Appeal**

50. My conclusions on the second and third main issues do not overcome the harm I have identified under the first main issue concerning the effect of the building on the street scene. I have had regard to all other matters raised. The appeal on ground (a) fails and planning permission will be refused for the development that has occurred.

### **Appeal on Ground (f)**

51. It is contended on behalf of the appellants that, if planning permission is not granted for the building as it exists, it would be wasteful and excessive to require the whole building to be demolished, since it may be possible to alter and adapt the building in order to overcome the objections. A range of options are discussed in general terms in the appellants' evidence, including a reduction in the top floor and a reduction in the forward projection facing Dora Road. These possible alterations are described as uneconomic but physically possible without total demolition.
52. I agree that it ought to be possible to alter the building to make it acceptable, and that such a course of action would be less wasteful of resources. However, there is no agreed detailed scheme before me, which could be substituted as a requirement of the enforcement notice. The notice is clearly directed at remedying the breach of planning control and in the absence of an acceptable alteration scheme, I have no option but to uphold the requirement to demolish the building.
53. To avoid the requirement to demolish, the appellants will need to urgently prepare a scheme for alterations to the building, having particular regard to the reasons given in this decision for the refusal of planning permission for the existing building. The alteration scheme will need to be discussed with the Council and considered as a formal planning application. In the event of planning permission being granted, section 180 of the Act provides that the notice shall cease to have effect so far as inconsistent with that permission.

### **Appeal on Ground (g)**

54. The enforcement notice requires compliance within 3 months, but the parties have agreed that it would be reasonable, if the notice is upheld, to extend the compliance period to 6 months to allow time for an alteration scheme to be prepared, formally considered and carried out. The time for compliance will be varied to 6 months.

*C Whitehouse*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Jonathan Milner He called	Of Counsel, instructed by West and Partners Christopher Francis, Planning Consultant of West and Partners
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### FOR THE LOCAL PLANNING AUTHORITY:

Annabel Graham-Paul She called	Of Counsel, instructed by the Head of Legal Services Marcin Manikowski, Senior Enforcement Officer (Rina Odedra acted as the Council's legal representative on the morning of 7 <sup>th</sup> February due to the absence by reason of sickness of the Council's appointed barrister.)
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### INTERESTED PERSONS:

David Pincott John Rowcliffe Derek Horne	Local resident. Representing the Wimbledon Society. Planning consultant of Derek Horne & Associates representing a group of residents of Leopold Terrace, Leopold Road and Dora Road.
Michael Somerville Juliette Simpson	Occupier of the adjoining house. Local resident.

## **DOCUMENTS submitted at the inquiry**

- 1 Statement of Common Ground
- 2 Supplementary proof of evidence and appendices of Mr Francis
- 3 Completed section 106 Unilateral Undertaking dated 8<sup>th</sup> February 2012 and  
Supplementary Unilateral Undertaking dated 16<sup>th</sup> February 2012
- 4 Assessment of Unilateral Undertaking against CIL Regulations 2010
- 5 Indicative soft landscape plan.
- 6 Photograph of revised rooftop lift housing.
- 7 Copy of 2006 Planning Permission.
- 8 New Residential Development SPG (full document)
- 9 Schedule of distances from public amenity spaces.
- 10 List of conditions suggested by the Council in the event of planning  
permission being granted.
- 11 Closing submissions on behalf of the Council.
- 12 Closing submissions on behalf of the appellants.
- 13 Statement by David Pincott.
- 14 Statement by Derek Horne on behalf of local residents.
- 15 E-mail from Mr W Jakubowicz
- 16 Letter from Councillor Oonagh Moulton

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