



# Appeal Decision

Site visit made on 1 June 2005

by Michael Say BA DipTP MRTPI

an Inspector appointed by the First Secretary of State

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Date

06 JUL 2005

**Appeal Ref: APP/T5720/A/04/1168778**

**Upton Court, The Downs, London SW20 8JB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Balbus Ltd against the decision of the London Borough of Merton.
- The application (Ref 04/P0932), dated 4 May 2004, was refused by notice dated 26 August 2004.
- The development proposed is a new fourth floor comprising 2 two-bedroom flats on an existing four storey block of flats.

**Summary of Decision: The appeal is dismissed.**

## Main Issues

1. The main issues in this case are the impact the proposal would have on the character and appearance of the existing block and the street scene, and the implications for neighbours' living conditions with particular reference to outlook, sunlight, privacy, pollution, noise and disturbance.

## Planning Policy

2. The development plan includes the London Plan, adopted in February 2004, and the London Borough of Merton Unitary Development Plan (UDP), adopted in October 2003. Of the UDP policies to which I have been referred, I consider that policies BE.15 and BE.23 are most pertinent to my decision. These policies seek to control the appearance of new development, including extensions, and the likely impact on the occupiers of neighbouring properties. I understand that the Council has produced supplementary planning guidance (SPG) which requires a minimum of 10 square metres of amenity space per habitable room for new development. As I have not been supplied with the text of this SPG or any details as to its status, I give it limited weight in the consideration of this appeal.

## Reasons

### Character and Appearance

3. The appellants have described Upton Court as "*rather unprepossessing*" with a simplicity which is "*not one borne out of quiet elegance but out of paucity of thought and detail.*" They consider that "*the building's character would be improved by the alterations, albeit not to the point where it conspicuously draws attention to itself at the expense of its neighbours.*"
4. In my view, this design objective has not been successfully achieved by the proposal. I agree that an additional storey may not, of itself, necessarily damage the street scene, given the varied heights and roof styles of nearby buildings. However, the chosen solution to

utilise a radically different design combined with materials that would also contrast with the host building, is likely to make the building significantly more conspicuous than it is at present. This increased presence would be particularly noticeable in views from the north where the new profile would be clearly visible behind Wimbledon Close.

5. The design concept, materials and style of fenestration would bear little relationship to the block below or to its neighbours. This, combined with the additional height, would bring an obtrusive and discordant element to a building whose main aesthetic virtue in the past has been a tendency to blend in with other more attractive buildings in The Downs. The offers to reduce or remove the lift housing and to condition the choice of materials would provide only a partial solution to the problem.
6. Comparison has been drawn with Lanherne Court, currently under construction to the south of Marian Lodge, which appears to be making use of curved metal deck roofing with raised seams. However, at Lanherne Court this forms an integral part of a modern design and, on the basis of the evidence I have received and what I saw at my site visit, appeared of very limited comparability to the appeal proposal. During my site visit I saw an example of a curved roof on a non-residential building in Ridgway and examples of penthouse storeys on blocks in Lansdowne Road. However, these did not alter my view.
7. I conclude that the proposal would have an unacceptable impact on the character and appearance of the existing block and the street scene, contrary to UDP policy BE.23.

#### *Neighbours' Living Conditions*

8. The proposal would have a significant effect on the flats currently occupying the top floor of Upton Court. The proposed layout includes living rooms and outdoor terraces immediately above their bedrooms, which would be likely to cause an unacceptable level of noise and disturbance to their occupants. Remedial action through a planning condition or the Building Regulations would not adequately address the problem, particularly given the extreme proximity of the substantial rear terrace areas to bedroom windows just below.
9. The proposal includes 2 additional car park spaces to achieve an overall provision of 1 space per dwelling. At the time of my site visit, during mid to late morning, on-street parking was very heavy in the neighbouring section of The Downs and I consider that the proposed level of off-street provision is appropriate in the light of the Council's policy and the local circumstances. However, in order to achieve the additional spaces a section of the small grassed amenity space would be lost. The turning head next to the most southerly of the existing parking spaces would be extended and laid out as 2 spaces. One of these would be sited about 0.5 metres away from ground floor windows which appear to serve a kitchen and a bathroom. This would produce an unacceptable impact on the occupiers of the flat concerned in terms of noise and visual intrusion with possible associated air pollution problems. Given the small size of the site, the appellant's offer to remove 1 of the 2 spaces and submit details showing the disposition of parking spaces on the site for subsequent approval would not be acceptable.
10. I am also concerned at the proposed reduction in the amenity space from what is already a small site developed at a high density. Whilst the roof terraces would provide some compensatory private outdoor space for the new occupants, the erosion of the communal area juxtaposed with the increase in built development adds to the more detailed concerns I have expressed about harm to neighbours' living conditions.

11. I have examined the points made by the Council and local residents concerning impact on neighbours' living conditions including the potential for overlooking, overshadowing and loss of privacy. Subject to the new windows in the flank elevations facing directly towards Marian Lodge and Wimbledon Close being fitted with obscure glazing, which could be achieved by imposition of a planning condition, I consider there would be no harm caused by overlooking. Otherwise, in the context of the existing blocks and the relationships between existing flats, I do not consider that the proposals would harm neighbours' living conditions in these ways. Likewise, I am not persuaded that the change in outlook from neighbouring properties would in itself be sufficiently harmful to neighbours' living conditions to justify the refusal of planning permission.
12. Notwithstanding my positive findings in terms of outlook, overlooking, overshadowing and privacy, these are outweighed by the harm that I have identified. On the second main issue, I conclude that the proposal would harm neighbours' living conditions, contrary to UDP policy BE.15.

#### Other Matters

13. I am not convinced that the additional car park spaces (numbers 13 and 14) could be used safely and conveniently. The appellants have offered to move them further back to ease any manoeuvring difficulties, but this would eat further into the amenity space. In any event, in the absence of a swept path analysis it appears unlikely that a car using either of the new spaces, while the other space and space number 12 are occupied, could effect a 3 point turn in the area available. This could lead to an undesirable amount of reversing along the access way and into the access road by Wimbledon Close which is shared with a number of other drivers. Whilst I acknowledge that the existing turning head is already being pressed into service as an informal parking space, the means of providing new spaces should be demonstrably safe and convenient.
14. The appellant has stressed the value of providing additional units of accommodation, in accordance with strategic planning objectives. Given the high density already achieved on the appeal site, this does not outweigh the other considerations which have led to my decision. I have considered the range of conditions put forward by the main parties, including those suggested by the appellants as a means of achieving an acceptable development. However, these factors do not outweigh my findings on the main issues.

#### Conclusions

15. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

#### Formal Decision

16. I dismiss the appeal.

  
INSPECTOR

LONDON BOROUGH OF MERTON

07 JUL 2005

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04/P0932 REFUSED AND DISMISSED ON APPEAL 6 JULY 2005

# 02 ASSESSMENT Planning history

**Planning History**  
A previous proposal for an additional storey to provide two additional residential units was refused planning permission subsequently dismissed at appeal in 2004.

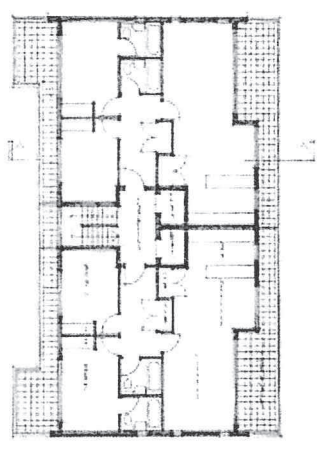
There were two main issues associated with the 2004 appeal, first the effect of the proposal on the character of the area and second, whether the proposal would harm the living conditions of neighbouring properties. On the first issue the inspector concluded that the proposed development would have an adverse impact on the character and appearance of the host building and the street scene area owing to its radical curved roof design and use of inappropriate materials which would result in an alien form of design in the area.

However, the Inspector concluded that the principal of an additional storey was acceptable and would not be at odds with the character of the area as a result of the varied heights and roof styles of nearby buildings.

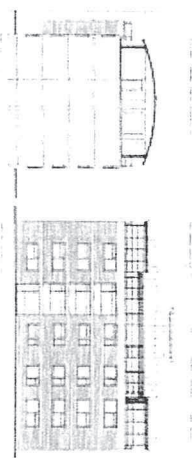
On the second issue, the inspector concluded that the proposal that the proposed development would hard the living conditions of the flats immediately below. The Inspector considered that the use of the outside terrace areas in close proximity to bedroom windows would lead to noise and disturbance. In addition the Inspector considered that the provision of additional parking adjacent to the ground floor window of the existing unit would lead to noise and disturbance.

The design of the current application has been fully informed by the planning history of the site and seeks to overcome the previous reasons for refusal by creating a sensitive development which will have no impact on the amenities of the neighbouring properties. In addition the design has been informed by a comprehensive Character Assessment of the surrounding area to ensure the proposal respects the site context and wider character and appearance of the area.

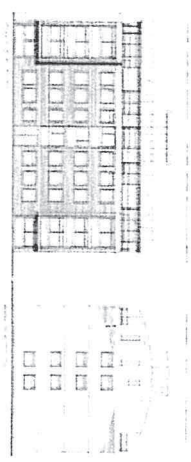
Notwithstanding the planning history of the site the proposed development presents an excellent opportunity to maximise and make efficient use of this sustainable site. The development of the site for housing is therefore consistent with the national and local planning policy and the principal of development is acceptable.



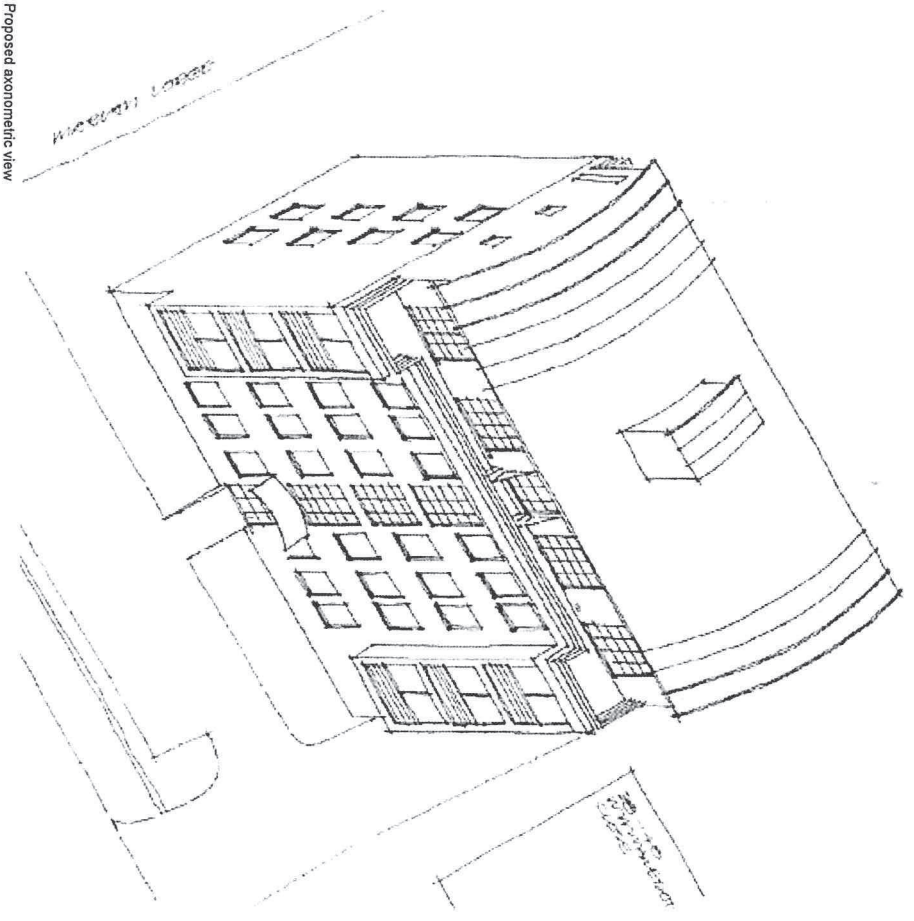
Proposed top floor plan



Proposed rear elevation and section



Proposed front and side elevation



Proposed axonometric view