



Appeal Decision

Site visit made on 27 April and 14 June 2023

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2023

Appeal Ref: APP/H5960/C/21/3289693

142 Priory Lane, London SW15 5JP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Mrs Lavinia Jacobs against an enforcement notice issued by the London Borough of Wandsworth.
 - The notice was issued on 23 November 2021.
 - The breach of planning control as alleged in the notice is without planning permission and within the past four years, the unauthorised erection of ducting and associated works at the Property.
 - The requirements of the notice are to:
 1. Remove the ducting and associated works and comply with roof plan approved under the planning permission ref:2018/2298; and
 2. Remove from the site all debris arising from compliance with step 1 above.
 - The period for compliance with the requirements is: Twenty (20) weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the unauthorised erection of ducting and associated works at 142 Priory Lane, London SW15 5JP as shown on the plan attached to the notice.

Applications for costs

2. An application for costs was made by Mrs Lavinia Jacobs against the London Borough of Wandsworth. This application is the subject of a separate decision.

Preliminary Matters

3. I carried out a site visit initially on 27 April when this appeal was being considered alongside another at the same site concerning the erection of anti-intruder spikes and associated works Ref APP/H5960/C/21/3288890. However, it was not very easy to see the ducting on the roof of the building and so another visit was organised with access organised by the Council into a nearby property, No 134 Priory Lane.

The Appeal on ground (c)

4. The appeal on this ground is that what is alleged does not constitute a breach of planning control. The onus is upon the appellant to demonstrate their case.

5. Planning permission was given for “demolition of existing house and erection of three-storey 6-bedroom dwelling with associated landscaping, cycle and refuse storage and parking with vehicular access from Roehampton Gate” in 2018. Subsequent to that permission, an application was submitted with details to attempt to discharge planning conditions. The covering letter submitted with that application in February 2019 confirms that details were being submitted to discharge condition (3) related to ‘materials’ amongst others. No mention is made in that letter or the related condition regarding ducting or extraction equipment.
6. A number of plans are therefore relied upon by the appellant. The plan that was submitted as part of the retrospective application to retain the ducting, shows the layout of the ducting as it has been constructed. The aerial photograph taken by a drone also confirms that the current layout of the ducting is as shown on that plan. From these I can see that the ducting has been constructed over a significantly larger area of the roof that was shown on the plan approved as part of the planning application for the dwelling, ‘D14 P20 03’. The approximate area covered by ducting is more akin to what has been implemented on the plan submitted to discharge the ‘materials’ condition No 3 (the coloured roof plan ‘D14 P SK2’). That however shows runs of ducting that are materially different from what has been implemented. Furthermore, I have not been provided with any approved drawings of the ducting showing its full detail in terms of it being a 3-dimensional substantial structure which is not represented fully on the drawings I have been provided with. I am unsure whether such plans were requested by the Council or provided by the appellant at any stage of the emergence of the scheme for the dwelling.
7. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), Article 3, Schedule 2, Part 1 Class C. Class C permits alterations to the roof of a dwellinghouse, subject to a number of limitations. The appellant has raised these rights with respect to the possibility of reinstating ducting complying with these permitted development rights if the notice is upheld and then needs to be complied with. The information submitted does not indicate however that the ducting is of the dimensions that would comply with those permitted development rights.
8. I therefore consider that the ducting as alleged on the notice does not have planning permission and therefore constitutes a breach of planning control. As such, the appeal on ground (c) fails.

The Appeal on ground (a)

Main Issue

9. The first main issue is the effect of the development on the character and appearance of the appeal site and surrounding area. The second is the effect on living conditions at neighbouring properties.

Reasons – character and appearance

10. The appeal site is in a mostly residential part of Wandsworth close to the open expanse of Richmond Park. The site is located on a sharp bend formed by the junction between Priory Lane and Roehampton Gate. The high red-brick wall around the boundary screens views of lower part of the modern dwelling and its garden. The upper parts of the dwelling are noticeable from the

surrounding roads. The modern, clean lines are between the soft prominent landscaping within and surrounding the site in the form of large trees in a leafy suburban street-scene. The ducting and other paraphernalia relate to the functioning of the dwelling and are located on the long flat-roof of the dwelling that runs north-south within the appeal site. The ducting consists of substantial black tubes which run along the eastern side of that flat roof.

11. The black ducting is only partially noticeable from the street outside of the site and from within the appeal site. I could only gain access from 1 neighbouring property at No 134 Priory Lane although that also enabled me to better understand the relationship of the appeal site and the dwelling, relative to other neighbouring properties and to understand the photographs that have been supplied including those from neighbouring residents. The flat roofs of the modern dwelling can be seen from neighbouring properties. I could also see glimpses of the black ducting from the second-floor bedroom and landing window between the first and second floors. This is in the context of substantial tree cover in garden areas of the neighbouring properties although I recognise that a number of the trees appear to be deciduous. Leaf cover would be less-dense for much of the year. The dark material has a recessive quality and is seen against the backdrop of the modern building, its roof and the trees to south and west of the appeal site. Although I could not visit nearer properties, closer views will be possible from the upper floors of other properties that are more closely related to the appeal site.
12. Whilst the ducting has a utilitarian appearance, it is clear from the information on the original planning permission for the dwelling, including the approved roof plan (Ref 'D14 P 20 03'), that ducting was an integral part of the design of the dwelling. The layout of the pipes as shown on the approved plan has not been adhered to but there was clearly an expectation that ductwork of some form was going to be installed.
13. Despite the inevitably functional appearance of the development, it appears as an integral part of the design of the modern building which is necessary for its operation as conceived and previously accepted by the Council. I do not consider that it appears at odds with the design or that it can be considered as an incongruous addition. It can be seen from neighbouring properties but the impact is very limited and lessened further away from the site by visual interruption from the significant amount of trees within and around the site.
14. In relation to the main issue, the character and appearance of the appeal site and surrounding area has not been harmed by the development. As such, the development does not detract from the building contributing positively to the local environment in compliance with Core Strategy¹ Policy IS3. Furthermore, the development provides a sufficiently high-quality design which as a part of the dwellinghouse contributes positively to the local special character in compliance with Development Management² (DM) Policy DMS1. For these reasons and in these respects, the development complies with the advice in the National Planning Policy Framework.

Reasons – living conditions

15. The ducting is noticeable from neighbouring properties but as I set out above,

¹ Wandsworth Local Plan, Core Strategy, adopted March 2016

² Wandsworth Local Plan, Development Management Policies Document, adopted March 2016

this has a very limited impact visually. The development does not overshadow or cause any overbearing impact and I have no evidence that it causes other impacts upon the enjoyment of nearby properties.

16. As such, in relation to the second main issue, the development does not have a harmful effect on living conditions at neighbouring properties. For the reasons set out above, DM Policy DMS1 is complied with.

Other Matters

17. Many of the objections relate to the original design of the dwelling at the appeal site and it is not for me in this appeal to consider that.
18. It is not necessary to attach any planning conditions and none have been suggested by the Council.

Conclusion

19. Having had regard to the development plan as a whole and all other material considerations, I conclude that the development is acceptable. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. The appeal on ground (f) does not therefore fall to be considered.

Andy Harwood

INSPECTOR