



Appeal Decisions

Site visit made on 24 January 2024

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14TH MARCH 2024

Appeal A Ref: APP/H5960/C/23/3317317

Appeal B Ref: APP/H5960/C/23/3317318

9 Alfriston Road, London SW11 6NS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mr Giles Nicholas Hartwright and Appeal B is made by Mrs Tina Louise Hartwright against an enforcement notice issued by the Council of the London Borough of Wandsworth.
- The notice was issued on 18 January 2023.
- The breach of planning control as alleged in the notice is without planning permission and within the last four years, the unauthorised erection of a single storey rear / side extension at the Property.
- The requirements of the notice are to:
 1. Remove the unauthorised single storey rear / side extension from the Property;
OR
 2. Carry out remedial works so that the layout of the Property accords with the approved plans and conditions of planning permission dated 27 May 2021 under reference 2021/0712 (a copy of the Decision Notice is appended to this Notice for ease of reference);
AND
 3. Remove from the Property all debris arising from the compliance with step 1 or step 2 above.
- The period for compliance with the requirements is: four (4) months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) 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.

Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decisions.

Appeal C Ref: APP/H5960/W/23/3315100

9 Alfriston Road, Wandsworth, London SW11 6NS

- 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 Mrs Tina Hartwright against the decision by the Council of the London Borough of Wandsworth.
- The application Ref 2022/3219, dated 28 July 2022, was refused by notice dated 31 October 2022.
- The development proposed is the erection of a side extension and associated alterations to elevations.

Summary Decision: The appeal is allowed, and planning permission is granted set out below in the Formal Decisions.

Matters Concerning the Enforcement Notice

1. The allegation and requirements set out in the Enforcement Notice (Notice) are satisfactory, but there are unnecessary or superfluous words that can be deleted

without altering the nature of the allegation and requirements. The wording used in step 2 of the requirements is also amended so that it corresponds with the wording of the allegation.

2. The corrections and variations set out below would not alter the nature of the allegation or its requirements and do not cause any prejudice to either party.
3. In paragraph 3, delete the words 'and within the last four years' and the word 'unauthorised.' In paragraph 5, step 1, also delete the word 'unauthorised.' In paragraph 5, step 2, delete the words 'layout of the property' and substitute with the words 'single storey rear / side extension.'

Preliminary Matters

4. During the course of the appeal the revised National Planning Policy Framework December 2023 (the Framework) was published. There are no substantive changes relevant to the appeal before me, and therefore the Council, the appellant and other interested parties would not be prejudiced by my consideration of the 2023 version of the Framework.
5. The Wandsworth Local Plan (Local Plan) was adopted by the Council on 19 July 2023. This replaced the Wandsworth Core Strategy 2016 and the Wandsworth Development Management Policies Document 2016, such that the policies of those plans cited on the Enforcement Notice (Appeals A and B) and the Decision Notice (Appeal C) are no longer part of the development plan and have no weight. The appellant and Council have been made aware of this and have not raised any further matters in respect to the newly adopted Local Plan. I am satisfied that any references made to it within this decision would not be unreasonable to the parties.
6. Aside from the development being described as 'single storey rear / side extension' in the Notice, and 'side extension and associated alterations to elevations' in the planning application, the main issues in Appeals A, B and C are the same. As such, to avoid duplication, I have considered them together.

Appeals A and B: The Ground (a) and the Deemed Planning Application, and Appeal C

7. The **main issue** is the impact of the development on the living conditions of the neighbouring occupants of 7 Alfriston Road, with regard to light and outlook.

Reasons

8. The neighbour at 7 Alfriston Road is an adjoining two storey terraced dwelling. The neighbour's side return door/glass panel is positioned on the end of a small extension, which is situated between their own two storey rear projection and the side extension of the development.
9. I accept that the side elevation of the development is tall, and is situated along part of the side boundary with the neighbour. However, the outlook from the side return door/glass panel, as well as the garden area immediately outside, would have already been enclosed by the side elevation of the appellant's previous flat roof extension and the two storey rear projection. Although the extension increases the wall height, it would not extend closer with a similar depth. In this context, I am of the view that the development does not result in an adverse

change to the outlook from the side return door/glass panel or the immediate garden area to the detriment of the neighbour's living conditions.

10. From what I saw on my site visit, the kitchen space being served by the side return door/glass panel also receives light from a rooflight. The Light Assessment submitted by the appellant sets out a vertical sky component assessment, which confirms that the development results in a 0.6% loss of day and sunlight being received by the side return door/glass panel. However, the development does not change the levels of light received by the large skylight serving the same room. Consequently, the loss of daylight and sunlight to the side return door/glass panel is minimal and does not adversely impact on the living conditions. The development also does not extend past the existing two storey projections, ensuring most of the neighbouring garden area remains open with no loss of light.
11. I note the Council's concerns over the lack of pre-construction Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH) calculated for neighbouring properties in the Light Assessment. However, based on the evidence before me and my site visit, I am satisfied that the loss of light to the side return door/glass panel and garden is not so significant that it adversely impacts on the neighbour's living conditions.
12. Accordingly, the development does not result in an unacceptable level of harm to the living conditions of the occupants of No 7, with regard to light and outlook. The development complies with Policies LP2 and LP5 of the Local Plan, as well as the advice and guidance in the Housing Supplementary Planning Document (SPD). The policies and guidance require developments to not be overly dominant and avoid causing an unacceptable level of harm to neighbouring occupants living conditions. Amongst other things, it includes no unacceptable loss of daylight and sunlight or outlook to neighbouring properties or gardens.

Other Matters

13. I have noted the representations, and I appreciate that not being consulted prior to the changes being made and the proper planning process not being followed would have been frustrating. However, this in itself is not a sufficient reason to withhold planning permission.
14. The representation also refers to the Party Wall Act, the position of the guttering along the party wall and the effect on the neighbour's ability to extend their property in the future. These matters are, however, civil matters between two landowners that fall outside of the remit of this decision. Planning permission would not, however, override any Party Wall Act processes, which is governed by separate legislation.

Conditions

15. No conditions have been suggested by the Council or appellant in this instance. The development is completed, and the proposal is to regularise the works as built. As I have found the extension as built acceptable, no conditions are necessary.

Conclusion

16. Subject to the corrections and variations, Appeals A and B are 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. In view of the decision on the ground (a) appeal, the appeal on ground (g) does not therefore fall to be considered.

17. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that Appeal C should be allowed.

Formal Decisions

Appeal A Ref: APP/H5960/C/23/3317317

Appeal B Ref: APP/H5960/C/23/3317318

18. It is directed that the Notice is corrected and varied by

In paragraph 3, delete the words 'and within the last four years' and 'unauthorised.'

In paragraph 5, step 1, delete the word 'unauthorised.'

In paragraph 5, step 2, delete the words 'layout of the property' and substitute with the words 'single storey rear / side extension.'

19. Subject to the corrections and variations, the appeals are 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 erection of a single storey rear / side extension at the Property.

Appeal C Ref: APP/H5960/W/23/3315100

20. The appeal is allowed, and planning permission is granted for the erection of a side extension and associated alterations to elevations at 9 Alfriston Road, Wandsworth, London SW11 6NS in accordance with the terms of the application, Ref 2022/3219, dated 28 July 2022, and the plans submitted with it.

M. P. Howell

INSPECTOR