



Appeal Decision

Site visit made on 30 April 2025

by **Mr James Blackwell LLB (Hons) PGDip, Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 29 May 2025

Appeal Ref: APP/H5960/C/23/3330206

Land to the rear of 59 Twilley Street, London SW18 4NU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Ms Jane Rankin against an enforcement notice issued by Wandsworth Borough Council.
- The notice was issued on 16 August 2023.
- The breach of planning control as alleged in the notice is “*Without planning permission and within the last 4 years, the unauthorised erection of a timber platform over, and affixed to, the banks of the River Wandle at the Property*”.
- The requirements of the notice are to:
 1. Remove the unauthorised timber platform and restore the Property to its previous condition; and
 2. Remove from the site all debris arising from compliance with step 1 above.
- The period for compliance with the requirements is three months after the date on which the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) 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 dismissed and the enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decision.

Preliminary Matters

1. The Council adopted its new Local Plan in July 2023, just before the enforcement notice was issued. I have determined the appeal with regard to this version.
2. The appellant says the description of land to which the notice relates should be amended for greater accuracy and clarity. As drafted, the area edged in red on the accompanying plan denotes the extent of no. 59, and the area hatched in black denotes the location of the alleged development (which falls outside of this red line area). I have made a minor correction to this description to make it clear that the definition of “Property” clearly captures both areas. This will ensure greater clarity in terms of the extent of land which is subject to the notice.
3. The appeal is very similar to another appeal relating to the next-door property at no. 61. Whilst I have dealt with both appeals, and the issues and evidence are essentially the same across both, each case has been considered on its own individual merits.

GROUND B

4. Pursuant to ground (b), the appellant says the matters alleged in the notice have not occurred as a matter of fact. This is because they say the timber platform is not affixed to the riverbank. They also say the platform does not overhang the riverbank as alleged. As a legal ground of appeal, the burden is on the appellant to demonstrate their case on this ground, on the balance of probability.

5. It is not disputed that a timber platform has been erected within the Property. However, the appellant says it is affixed to the flood defence wall, and not the riverbank, which means the description of development includes a minor technical inaccuracy. This can easily be remedied by a simple correction to the notice. However, the platform does appear to overhang the riverbank, which is evident from the photos submitted and my observations during site visit. In turn, the description of development is otherwise accurate.
6. Subject to the minor correction mentioned above, the matters alleged have therefore occurred as a matter of fact, and the appeal on ground (b) fails.

GROUND C

7. Pursuant to ground (c), the appellant says that the matters alleged in the notice do not constitute a breach of planning control. This is because the appellant says the platform is permitted development. Once again, the burden is on the appellant to demonstrate their case on this ground, on the balance of probability.
8. Class E, Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) permits certain buildings or enclosures within the curtilage of a dwellinghouse.
9. In the present case, the platform appears to have been constructed, at least in part, on land which falls outside of the registered title to no. 59. The Council's evidence also suggests the platform is registered as part of the River Wandle, which means functionally, the land is unrelated to the domestic use of no. 59. On account of these factors, the platform is unlikely to form part of the curtilage to no. 59, and the appellant has presented little evidence to suggest otherwise.
10. On the available evidence, the development would therefore not benefit from the permitted development rights afforded by Class E, as it is not within the curtilage of a dwellinghouse. In turn, the development would constitute a breach of a planning control, as planning permission has not been obtained. The appeal on ground (c) therefore fails.

GROUND A

11. The main issues in respect of the ground (a) appeal, being the deemed planning application for the matters alleged in the notice, are:
 - the effect of the development on flood risk;
 - the effect of the development on ecology; and
 - the effect of the development on the character and appearance of the area.

Flood Risk

12. The appeal site is located within Flood Zone 3(b), which means it is within the functional floodplain of the River Wandle. There is a concrete flood defence wall running along the top of the riverbank, and the timber platform sits over this wall. Whilst paragraph 4.4 of the appellant's statement says the platform is "affixed" to this wall, elsewhere in their statement, the platform is said not to be affixed to it.
13. Either way, Policy LP58 of the Local Plan says development should be set back from river banks and existing flood defence infrastructure. This would include the

flood defence wall referred to above. Given the platform extends out over the wall, it is clearly not set back from it. The development is therefore in breach of this policy.

14. Furthermore, Policy LP59 of the Local Plan says development on sites adjoining the River Wandle must not harm the stability or continuity of tidal or flood defences. The timber platform is said to be used as an outdoor amenity area for the appellant, and has therefore been designed for use by people. This will likely include people walking over the platform and sitting out on it. Irrespective of whether the platform is physically affixed to the flood defence wall, given it sits atop of it, over time, such usage could adversely affect its stability. There is little evidence before me to confirm otherwise.
15. Policy LP12 also says a Flood Risk Assessment is required for all development located in Flood Zone 3b. No assessment has been undertaken in respect of this appeal. Whilst the development is minor, without a flood risk assessment I cannot properly assess its impact with regard to flood risk. This is particularly problematic, given the potential issues highlighted above in terms of the stability and integrity of the flood defence wall.
16. Overall, this means I cannot rule out flood risk harm. As set out above, the development conflicts with Policies LP12, LP58 and LP59 of the Local Plan. The development also conflicts with Policy SI 12 of the London Plan (2021), which says development adjacent to flood defences will be required to protect their integrity. This policy also reiterates the need for development to be set back from flood defences, to allow for any foreseeable future maintenance and upgrades in a sustainable and cost-effective way.

Ecology

17. As discussed, the timber platform sits atop the concrete wall at the top of the river bank. With the exception of some common weeds, there is little fauna or vegetation where the crest of the river bank meets this wall (at least in and around the appeal site). In turn, there is little to suggest the platform encroaches on, or over, any particular habitats. Moreover, given the platform's modest size, its overhang of the river bank is minor. In turn, any potential impact owing to overshadowing would likely be negligible. Any statements made to the contrary are largely conjecture, and are not backed up by evidence.
18. On the available evidence, I am therefore satisfied the development does not harm the ecology or biodiversity of the appeal site, nor of its immediate surroundings. In this regard, the development is consistent with Policies LP53, LP58 and LP59 of the Local Plan, which together seek to protect the ecology of the borough's natural environment, including the habitat and biodiversity value of its waterways and shorelines. The development is also consistent with Policies G1, G6 and SI 17 of the London Plan, which promote similar ecology and biodiversity objectives.

Character and Appearance

19. The appeal site is located along the banks of the River Wandle, which is an attractive riverside area, abundant with trees, plants and fauna. Along this part of the river, there is a park running along its western side, and residential properties along its eastern side. The rear gardens to these houses back on to the river.

20. The platform does add some visual clutter to the riverbank. However, along this part of the river bank, there are numerous other platforms, seating areas and decks which overlook the river. They are therefore characteristic of the area, and the development is in-keeping in this regard. Moreover, the platform is constructed of timber which is sympathetic to the natural character of the riverbank, which ensures it integrates with the riverside setting, without undermining its attractive and verdant character.
21. Overall, I am therefore satisfied that the development does not harm the character and appearance of the area. In this regard, it is consistent with Policy LP1 of the Local Plan, which seeks to ensure development integrates effectively with its surroundings. The development is also consistent with Policies G1 and SI 17 of the London Plan, which seek to protect the green and open character of the borough's green infrastructure and its waterways.

Ground A - Conclusion

22. Notwithstanding my conclusions on ecology and character and appearance, the development could pose a risk to the structural integrity of the flood defence wall, and consequently, I cannot rule out flood risk harm. The development therefore conflicts with the development plan as a whole, and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding. The appeal on ground (a) therefore fails.

GROUND F

23. Pursuant to ground (f), the appellant says that the steps required to comply with the requirements of the notice are excessive, and that lesser steps would overcome the objections. In particular, the appellant says the extent of restoration is unclear and the requirement to remove the resulting debris is ambiguous. As per s173(4) of the Town and Country Planning Act 1990, the purpose of the notice is to remedy the breach of planning control, and the requirements must achieve this purpose.
24. In this instance, the requirement to restore the Property to its previous condition is ambiguous, and could conceivably be interpreted to apply to the property as a whole. I have therefore varied this requirement, to make it clear that the restoration requirement applies only to the area hatched in black on the plan attached to the notice.
25. The second step requires the appellant to remove all resulting debris from the site. Again, it is not clear what is meant by "the site", which means the requirement is ambiguous. As above, I have therefore varied this requirement, so it is clear the resulting debris must only be removed from the area hatched in black.
26. Subject to these variations, I am satisfied that the steps are proportionate, and go no further than remedying the breach of planning control. Nonetheless, the appeal on ground (f) succeeds to the extent outlined.

GROUND G

27. Pursuant to ground (g), the appellant says that the time given to comply with the notice is too short. As drafted, the notice requires the steps to be completed within three months of the notice taking effect.

28. A longer compliance period of five months has primarily been requested in case the decision was to be issued during autumn or winter months, when weather and daylight hours may be less favourable. However, given the date of decision, weather conditions and daylight hours will likely be at their most favourable during the compliance period.
29. Moreover, given the modest scale of development, the works needed to secure removal of the platform should not be overly time-consuming or extensive. In the circumstances, a three-month period to comply with the requirements should therefore be sufficient. In turn, the appeal on ground (g) fails.

Other Matters

30. The appellant refers to an appeal decision in South Gloucestershire in support of their case¹. Whilst the appeal concerns a similar type of development, it is in a different location where applicable development plan policies are different. In the present case, the flood risk management policies in the Council's Local Plan give a clear reason for refusal.
31. Whilst there are several examples of similar platforms along the river bank, there is little evidence before me to demonstrate which ones, if any, are authorised. In turn, they would not justify retention of the development in this instance, particularly given the potential flood risk harm identified.

Conclusion

32. For the reasons given, I conclude that the appeal on ground (f) succeeds in part, and I have varied the steps in the notice accordingly. However, the appeal on grounds (b), (c), (a) and (g) should not succeed. I shall therefore uphold the enforcement notice with corrections and variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Formal Decision

33. It is directed that the enforcement notice is corrected by:

(a) Deleting paragraph 2 and substituting it with the following new paragraph 2:

2. The Land to which the Notice Relates

Land at 59 Twilley Street SW18 4NU shown edged in red on the attached plan and land to the rear of 59 Twilley Street shown hatched black on the attached plan (both of which comprise "the Property").

(b) Deleting the words "*, and affixed to,*" from paragraph 3;

and varied by:

(c) Deleting paragraph 5 and substituting it with the following new paragraph 5:

5. What you are required to do

You are required to:

¹ APP/P0119/W20/3259396

1. Remove the unauthorised timber platform from the area hatched in black on the plan attached to the notice and restore this area to its previous condition; and
 2. Remove all resultant debris arising from compliance with Step (1) from the area hatched in black on the plan attached to the notice.
34. Subject to these corrections and variations, the appeal is dismissed, 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.

Mr James Blackwell

INSPECTOR