
Appeal Decisions

Site visit made on 2 June 2025

by **Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date 10 June 2025

Appeal A Ref: APP/C5690/C/21/3289312

Appeal B Ref: APP/C5690/C/21/3289518

Appeal C Ref: APP/C5690/C/21/3289521

Appeal D Ref: APP/C5690/C/21/3289522

116 Brockill Crescent, London SE4 2QD

- The appeals are made under section 174 of the Town and Country Planning Act 1990, as amended (the Act).
- Appeal A is made by Mr Oliver Garrett-Jones, Appeal B is made by Ms Colette Marianne Morris, Appeal C is made by Ms Leila Gonzalez and Appeal D is made by Mr Connor Watts against an enforcement notice issued by the Council of the London Borough of Lewisham.
- The notice was issued on 1 December 2021.
- The breach of planning control as alleged in the notice is 'The unauthorised erection of a white UPVC single side storey extension'.
- The requirements of the notice are to:
 - 5(1) Completely remove the unauthorised upvc single storey side extension.
 - 5(2) Make good all damage resulting from the compliance with the requirements of this notice.
 - 5(3) Remove all materials, debris, waste and equipment resulting from compliance with the above requirements of this notice from the land.
- The period for compliance with the requirements is: 3 (three) months.
- Appeal A was made on the grounds set out in section 174(2)(a) and (c) of the Act. 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.
- Appeals B, C and D were made on the ground set out in section 174(2)(c) of the Act.

Summary Decisions: Appeals A, B, C and D are dismissed and the enforcement notice is upheld.

Preliminary Matters

1. The appellants distinguish that the notice refers to removal of the extension whereas they allege that in earlier correspondence the Council suggested it be altered. Alteration of the extension was advanced by the appellants as part of Appeal A on ground (a) and part of Appeals A, B, C and D on ground (c). This matter is, though, also relevant to the requirements of the notice so it raises ground (f) in Appeals A, B, C and D. The Council has had an opportunity to consider these arguments in grounds (a) and (c) so I am satisfied there is no injustice determining the appeals on this basis.
2. After the enforcement notice was issued, the National Planning Policy Framework was revised then altered. This does not materially affect my determination of the appeals and there is therefore no injustice to the main parties.
3. Although scheduled as an accompanied site visit, a Council officer did not attend. After agreement with the appellants' representative, I was given internal and external access to No.116 Brockill Crescent and the case was not discussed. There is no injustice to the main parties from proceeding with my site visit on this basis. I viewed the surrounding area alone.

Appeals A, B, C and D on ground (c)

4. For the appeals on ground (c) to succeed, the appellants must demonstrate on the balance of probabilities that the extension the subject of the enforcement notice does not constitute a breach of planning control.
5. The appellants claim the extension has planning permission granted by Article 3(1) and Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO). Amongst other things, and even if the relevant limitations and other conditions are met, to be Class A permitted development the extension must meet condition A.3(a). It states that the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
6. The appellants also refer to the Permitted development rights for householders Technical Guidance, September 2019 (the TG). With regard to condition A.3(a), the TG includes that materials used should be of similar visual appearance to existing but do not need to be the same. However, the TG confirms this condition is intended to ensure an appearance that minimises visual impact and is sympathetic to existing development. It goes on to say this means the external walls of an extension should be constructed of materials that provide a similar visual appearance – for example in terms of colour and style of brick used – to the materials used in existing house walls. Furthermore, that a pitched roof on an extension should be clad in tiles that give a similar visual appearance to those used on the existing house roof.
7. The extension elevations are almost entirely constructed in opaque white UPVC wall panels, doors and frames. The mono-pitched roof is translucent ribbed polycarbonate panels in white UPVC frames. It has not been suggested that the extension has changed since the notice was issued. No.116 Brockill Crescent includes a white UPVC front door and white UPVC window frames. Given the apparent age of this house and when UPVC was first produced, it is possible, on the balance of probabilities, that it may have been constructed as such. However, even if it was, the doors and windows are incidental exterior components. The external facing materials used in the substantive construction of the house are buff stock brick and slate tiles on a hipped pitched roof.
8. Consequently, the materials used to construct the extension are not the same as the main structure and fabric of the house and, in this case, they are not of a similar visual appearance. As a result, the significant contrast in materials means those used in the extension do not minimise visual impact and are not sympathetic to the house, as intended by the TG.
9. The appellants also contend the extension is a conservatory, thus the requirement of condition A.3(a) for similar visual appearance (to the house) does not apply; or that it could be altered to make it appear as a conservatory to circumvent condition A.3(a). There is no definition of ‘conservatory’ in the TG but the dictionary definition used by the Council is not disputed – a room with a glass roof and walls, attached to a house at one side and used as a sun lounge or for growing delicate plants.
10. Both rear doors each include a glass pane and the extension is attached to the house on one side, but it does not have a glass roof or walls. Sunlight may enter

this enclosed space, which included a small camping style folding table and two folding chairs. However, it was mostly being used for domestic storage more akin in function to a shed, including a workbench, than a sun lounge. While this included some gardening equipment and machinery I saw no plants being grown. There is, therefore, little evidence to suggest that the extension is a conservatory.

11. Having regard to Article 3(5), the GPDO does not grant planning permission retrospectively for unlawful development. The extension could only be permitted development if it met condition A.3(a) when it was erected. However, there is little evidence that it did meet condition A.3(a) for the reasons explained above. So, even if the walls or roof were altered to make it a conservatory and it was used as such, the resulting structure would still be without planning permission under the GPDO. Whether it could then be altered back into the appearance of the extension as permitted development, as the appellants claim, is thus of little consequence.
12. Taking all the above into account, the appellants have not demonstrated on the balance of probabilities that the extension complies with condition A.3(a). It is not, therefore, granted planning permission as Class A permitted development.

Conclusion on Appeals A, B, C and D on ground (c)

13. For the reasons given above the extension is a breach of planning control. Accordingly, ground (c) fails.

Appeal A on ground (a)

Main issue

14. Ground (a) is that planning permission ought to be granted for the breach of planning control stated in the notice. This refers to a white uPVC single side storey extension. The main issue is:
 - the effect of the extension on the character and appearance of No.116 Brockill Crescent and the area.
15. The form and siting of this small-scale and physically subservient house extension is typically conventional in principle. However, the unsympathetic external materials do not complement No.116 for the reasons outlined earlier. The incompatibility between UPVC and polycarbonate materials in the extension (including that they are visually and physically more temporary in nature) and permanent brick and slate is innate and detracts significantly from the overall visual and design coherence of this house.
16. No.116 is one half of a semi-detached pair of essentially the same house design. The brick and slate construction is also indicative of an enclave of other similar, still largely original houses in Brockill Crescent and St Norbert Green which exhibit a broadly uniform architectural style. Notwithstanding that No.116 is not in a Conservation Area or other designated area and not a heritage asset, this discrete residential development is locally distinctive and can be appreciated as such.
17. Many of these other houses have white UPVC front doors and most appeared to have white UPVC window frames. Some, including some referred to me, have been altered to white or light cream rendered elevations. A few have single-storey side extensions, though there is little evidence that where these incorporate white

elevations they are UPVC or that roofs are translucent polycarbonate (including No.13 St Norbert Green, where additionally there is little to substantiate that this side extension was permitted development, as the appellant claims). In any event, brick elevations and slate roofs prevail and the extension is, therefore, out of kilter with these important features of residential development in this area.

18. A small set back from the front elevation of No.116 screens much of the extension in public view from the south in Brockill Crescent. It is also not very wide and the gap between No.116 and No.118 Brockill Crescent is relatively narrow. Nonetheless, the front and a significant proportion of the extension in-depth is conspicuous in public view from this road to the north, across the front garden of No.118 and perpendicular to No.116. The disparate tension between the materials in the extension and the house jars in this streetscene and as such has a negative impact on the look and feel of the area.
19. The appellant contends that the design of the extension could be altered, including to make it a conservatory and more acceptable in appearance. A planning condition could require changes to details of the extension. However, in order to meet the definition of a conservatory set out earlier, the elevations and roof of the extension would still need to be removed and then rebuilt. Such a fundamental modification could not, in my judgement, be reasonably regarded as part of the development the subject of the notice or the deemed application sought by the appellant in ground (a), including that it is not described as a conservatory in the notice. There is also little evidence that until the issue of the notice and the appeal was lodged, anything other than an extension was intended.
20. Taking account of all the above, I find that the extension causes harm to the character and appearance of No.116 Brockill Crescent and the area. It therefore conflicts with Policy 15 of the Lewisham Core Strategy (June 2011), Policy 31 of the Lewisham Development Management Local Plan (November 2014) and Policy D3 of the London Plan (March 2021). These policies include that development should ensure the highest quality design, be sensitive to local context and respond to local character. Additionally, residential extensions should complement the form, setting, period, architectural characteristics and detailing of original buildings, including high quality matching or complementary materials.

Other matters

21. The Council did not object to the extension for reason of adverse effect on the living conditions of the occupiers of any dwelling. The absence of harm in this regard is a neutral factor in my decision.

Conclusion on Appeal A on ground (a)

22. The extension conflicts with local planning policy. There are no other considerations to indicate that the appeal should be determined otherwise than in accordance with the development plan taken as a whole. Consequently, for the reasons given above ground (a) fails.

Appeals A, B, C and D on ground (f)

23. Notwithstanding what the Council may have previously sought to negotiate with the appellants, it is clear from the reasons for issuing the notice, and requirement 5(1) to remove the extension, that its purpose is to remedy the breach of planning

control alleged. It does not seek to under-enforce. For the appeals on ground (f) to succeed, the appellants must therefore demonstrate that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control. There is no dispute that requirements 5(2) to make good any damage and 5(3) to remove arisings from the land reasonably flow from requirement 5(1).

24. It is open to me to consider obvious alternatives that would overcome the planning harm set out in the notice and potentially at less cost or disruption to the appellants. However, there are no plans before me for a scheme to modify the extension into a conservatory. Furthermore, the suggested changes that have been outlined by the appellants in this regard are not acceptable for the reasons I have explained in Appeal A in ground (a) and in Appeals A, B, C and D in ground (c). There is also little evidence to suggest that even if the extension floor was retained, rebuilding walls and a roof for a conservatory (after still having to remove these parts of the extension) would be at less cost and disruption than simply removing the extension.

Conclusion on Appeals A, B, C and D on ground (f)

25. In these circumstances, I am satisfied the requirements of the notice are consistent with remedying the breach of planning control and as such they are not excessive. Accordingly, ground (f) fails.

Formal Decisions

Appeals A, B, C and D

26. The appeals are dismissed and the enforcement notice is upheld. Planning permission is also refused on the application deemed to have been made under section 177(5) of the Act.

Robin Buchanan

INSPECTOR