



Appeal Decision

Site visit made on 15 July 2025

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 July 2025

Appeal Ref: APP/H5960/C/24/3347343

93 Twilley Street, LONDON, SW18 4NW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Robert Paul against an enforcement notice issued by the Council of the London Borough of Wandsworth.
- The notice was issued on 22 May 2024.
- The breach of planning control as alleged in the notice is: *without planning permission and within the last 4 years, the erection of a timber platform, stairs and banister rails on the banks of the River Wandle.*
- The requirements of the notice are:
 1. *Remove the timber platform, banister and stairs from the land; and*
 2. *Remove from the site all debris arising from compliance with step 1 above.*
- The period for compliance with the requirement is: *Six (6) weeks after the date on which this notice takes effect.*
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (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.

Summary of Decision: The appeal is dismissed, and the enforcement notice is upheld subject to the corrections in the terms set out in the Formal Decision below.

Formal Decision

1. It is directed that the enforcement notice (EN) is corrected by:
 - Deleting the wording *“shown edged in red on the attached plan”* from Section 2 of the EN.
 - Deleting the plan¹ attached to the EN.
2. Subject to these corrections, the appeal is dismissed, and the EN is upheld.

Preliminary Matters

3. The plan attached to the EN provides a red line around the property to which the alleged breach of planning control relates. However, following the site visit it appears that the unauthorised timber platform, stairs and banister rails are located on the banks of the River Wandle, outside the red line boundary indicated on the attached plan. Caselaw² provides that an inaccurate plan can be deleted without offending the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002, so long as the site is or can precisely be described in words alone.
4. The land to which the EN relates is described on the notice as *‘Land at the rear of 93 Twilley Street, SW18 4NW shown edged in red on the attached plan (the*

¹ Drawing Reference 2024/0073/ENF

² Wiesenfeld v SSE & Brent LBC [1992] JPL 556

property)'. Given its description as the land at the rear of the property, the EN can be corrected, by deleting the wording "shown edged in red on the attached plan" and the plan itself, because it is clear from the notice as a whole that the Council is concerned only with the timber platform, stairs and banister rails which are located at the rear of the site. Consequently, there would be no prejudice to either party arising from the corrections to the EN.

Appeal on ground (a), the deemed planning application

Main issues

5. An appeal on ground (a) is that planning permission should be granted for the matters alleged in the EN. The EN is principally concerned with the effect of the development on i) flood risk; ii) the river's habitat; and iii) the character and appearance of the area including the river channel, as identified by the Council in its reasons for issuing the EN.

Reasons

Flood risk

6. The site is located within Flood Zone 3(b), meaning it is within the functional floodplain of the River Wandle. Policies LP12 and LP58 of the Wandsworth Local Plan 2023-2038 (WLP) adopted July 2023, and policy SI12 of the London Plan (LP), adopted March 2021 collectively seek development to minimise and mitigate flood risk. Development needs to clearly demonstrate that the proposals avoid or reduce contributing to all sources of flooding. Development which encroaches onto the river foreshore will not be supported and should be set back from the banks of the watercourses and existing flood defence infrastructures.
7. The development subject to this appeal consists of a timber platform, stairs and banister rails at the rear of 93 Twilley Street and are fixed to the concrete bank of the River Wandle. Consequently, the development would not be set back from either the banks of the watercourse or the existing flood defence infrastructure, given that it sits on top, and is affixed to the concrete bank.
8. Paragraph 176 of the National Planning Policy Framework (the Framework) is also clear that applications for some minor development and changes of use whilst not subject to the sequential or exception tests, should nevertheless, still meet the requirements for site-specific flood risk assessments (FRA) set out in footnote 63.
9. As the appeal site is located in Flood Zone 3(b), this is an area that is at a higher probability of flooding³. Thus, should require the submission of a site specific FRA. However, as the development consists of a timber platform adjoining the river's edge, this could be considered '*water-based recreation (excluding sleeping accommodation)*' which could be considered water-compatible development⁴.
10. Nevertheless, water-compatible uses, should be designed and constructed to, i) remain operational and safe for users in times of flood; ii) result in no net loss of floodplain storage; and iii) not impede water flows and not increase flood risk elsewhere. As no FRA, or alike has been submitted as part of the appeal, and without the appropriate information in respect to the criteria above, I cannot be

³ Planning Practice Guidance – Flood Risk and Coastal Change, Paragraph: 078 Reference ID: 7-078-20220825

⁴ Framework Annex 3: Flood risk vulnerability classification

confident that the development is either appropriately flood resistant or resilient. Consequently, I must adopt a precautionary approach and conclude that I cannot properly assess the developments impact with regard to flood risk.

11. I acknowledge that conditions could be used to ensure that otherwise unacceptable development could be made acceptable, for example on receipt of further detailed technical information. However, given the lack of this technical detail, I cannot be sure that conditions would be sufficient to make the development acceptable and remedy any flooding impacts so that permission can be granted.
12. Consequently, there is insufficient information supplied in relation to flooding, and thus the development is contrary to the relevant sections of LP Policy SI12, WLP Policies LP12, LP58 and LP59 and the Framework which among other things seek to ensure flood risk is minimised and mitigated, and that residual risk is addressed.

Ecology and habitat

13. The river, riverbanks and river course of the River Wandle provide habitats for a diverse range of flora, fauna, invertebrates and birdlife. Any development which causes harm to the biodiversity value of the borough's blue infrastructure assets will not be permitted unless appropriate mitigation measures are provided.
14. From the evidence before me, there is limited information to establish the biodiversity value of the site, or indeed if any protected species, priority species or priority habitats are present on site. As such, an assessment of ecology and biodiversity could not be reasonably undertaken. Without robust evidence, I cannot be confident that the development has been carried out in this location without adversely affecting species and habitats that may have been present on site, or whether any suitable mitigation measures could have been provided. Given this uncertainty, I am not satisfied that it would in this case, be appropriate to defer consideration of this matter to a planning condition.
15. Accordingly, I am unable to conclude that the development has not resulted in adverse impacts on ecology and biodiversity. Therefore, I find that the development conflicts with the relevant sections of policies LP53, LP58 and LP59 of the WLP and policies G1, G6 and SI17 of the LP, which collectively seek to manage impacts on biodiversity and natural habitats and aim to secure net biodiversity gain. I find it would also conflict with the Framework, which sets out the principles for the determination of planning applications to protect and enhance biodiversity.

Character and appearance

16. During my site visit I observed several other structures such as cantilevered platforms and patios, steps, ladders, pontoons and various other paraphernalia within the vicinity of the appeal site adjoining the Wandle riverside. I have not been provided with the details of the planning history associated with these developments or indeed whether these are lawful or not. Nonetheless these structures form part of the characteristics of the area. Subsequently, the development subject to this appeal does not look out of proportion, or indeed incongruous in relation to the other examples in the surrounding area. These features add to the variation within the vicinity, as they are modest additions at the rear of the properties.

17. Consequently, the development does not appear as an incongruous feature within the area. The development does not harm the character and appearance of the area, and is consistent with Policy LP1 of the WLP which seeks to ensure development integrates effectively with its surroundings. The development is also consistent with the relevant sections of LP policies G1 and SI17 which seek to protect the green and open character of the borough's green infrastructure and its waterways.

Conclusion on ground (a)

18. Notwithstanding my conclusions on character and appearance, there is insufficient information supplied in relation to flooding to ensure flood risk is minimised and mitigated, and that residual risk is addressed. Nor is there sufficient information for me to conclude that the development has not resulted in adverse impacts on ecology and biodiversity. The development therefore conflicts with the development plan as a whole, and there are no other considerations, including the provisions of the Framework, which outweigh this finding. The appeal on ground (a) therefore fails.

Appeal on ground (f)

19. This ground is that the requirements of the notice exceed what is necessary to remedy the breach of planning control or, as the cause may be, any injury to amenity caused by the breach.
20. Having regard to its requirements, it is clear that the purpose of the EN is to remedy the breach of planning control. That purpose includes removing the timber platform, banister and stairs from the land. This option provides for the complete removal of the existing development. I have not been supplied with details in respect to any other schemes, and as such I have no basis on whether another option which provides an obvious alternative to the complete removal of the current development is viable, nor whether this would prejudice either of the parties.
21. Consequently, I find that there is no alternative scheme that would be appropriate to remedy the breach of planning control, and as such the requirements of the EN are not excessive. Given that no lesser steps have been identified that would achieve the aims of the notice, the appeal on ground (f) therefore also fails.

Conclusion

22. For the reasons given above, I conclude that the appeal should be dismissed, and the EN is upheld subject to the corrections in the terms set out in the Formal Decision.

Robert Naylor

INSPECTOR