



Appeal Decision

Site visit made on 11 August 2025

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2025

Appeal Ref: APP/L5240/C/23/3331807

8 Southern Avenue, South Norwood SE25 4BT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Hyacinth Rose against an enforcement notice issued by the Council of the London Borough of Croydon.
 - The notice was issued on 26 September 2023.
 - The breach of planning control as alleged in the notice is
 1. Without planning permission unauthorised erection of metal and glass balustrade on the roof of the rear ground floor extension at first floor level creating a new amenity roof terrace in this area.
 2. Without planning permission, the creation of a new patio area at ground floor level which is significantly larger than what was approved under planning ref 16/02378/P, the building of new site boundary walls at the edge of the patio and the creation of new access steps to the garden level.
 3. Without planning permission, the excavation of part of the rear garden and the creation of a new basement area storage area.
 - The requirements of the notice are:
 1. Remove the metal and glass balustrading around the perimeter of the roof of the ground floor rear extension and cease to use the roof of the extension as an amenity area.
 2. Remove / demolish the ground floor patio area, side walls and wooden balustrading and steps to the garden level.
 3. Demolish the new unauthorised basement area storage extension and make good the land levels to their original levels.
 4. Remove all the resultant debris from the premises as a result of compliance with requirements 1, 2 & 3 as identified above.
 - The period for compliance with the requirement[s] is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (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.
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Decision

1. It is directed that the enforcement notice be:
 - varied by deleting the words “6 (six) months” within section 6 (time for compliance) and its replacement with “7 months”.
2. Subject to this variation, the appeal is dismissed, and 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.

The ground (d) appeal

3. The onus is on the appellant under ground (d) to make the case that, at the time the enforcement notice was issued, it was too late to take action against the matters stated in the notice. Consequently, the appellant needs to show that the matters alleged in the notice occurred at least 4 years before the Notice was

issued (which was 26 September 2019.). If the Council has no evidence of its own, or from others, to contradict or otherwise make the version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant's evidence alone is, on the balance of probability, sufficiently precise and unambiguous.

4. The appellant considers that the patio at ground floor level was built in 2016, and not in accordance with the approved plans in application ref: 16/02378/P¹ (2016 permission). A letter from the appellant to her architect dated 9 November 2016 states that the size of the approved patio at 1m in depth was not approved by her. The letter further states that she had begun work to build the patio 1.62m in depth to the side boundaries. It also states that she had a visit from the Planning Enforcement Officer on 2 November 2016 and that he suggested a variation of a condition application be submitted for the patio.
5. The appellant's letter states she had 'begun' works to build a patio at '1.62m' in depth. However, the current patio extends to approximately '2.5m' in depth from the rear extension. No further photographic evidence has been submitted which shows the size of the patio at this time. Nevertheless, the appellant's own letter, refers to a patio being erected considerably smaller than the current patio (circa 2.5m deep).
6. As such, the appellant has not provided any evidence to show that patio, as built, was more than four years old at the time the notice was served. It is well established in planning law that the onus rests with the appellant to make out his or her case. However, on the evidence before me, I find that burden has not been satisfactorily discharged in this particular case.
7. On the balance of probability, I conclude that at the time the Notice was issued it was not too late to take enforcement action against the alleged breach of planning control.
8. The ground (d) appeal therefore fails.

Ground (a) Appeal and the Deemed Planning Application

Main Issues

9. The main issues are the effect of the development on:
 - the character and appearance of the host dwelling and the area;
 - the living conditions of occupiers of 6 Southern Avenue with regard to outlook; and
 - the living conditions of occupiers of 6 and 10 Southern Avenue with regard to privacy and noise and disturbance.

Reasons

Character and appearance

10. The appeal site relates to a two-storey semi-detached property in a residential area characterised primarily by similar two storey properties. The appeal property has

1. ¹Approved 2 September 2016.

been previously extended at with a hip-to-gable roof including a rear dormer extension.

11. My attention has been drawn to the planning history of the site where planning permission was approved for retention of first floor front/single storey rear extensions with proposed front porch" (the 2016 permission). That development comprised a simple ground floor rear extension with a flat roof, and a 1m deep patio, set in from the boundaries with both neighbouring properties. The simple design and appearance of the extension ensured that the development, in combination with the existing rear dormer roof extension, remained subservient to the host building, preserving the character and appearance of the building and area, in addition to protecting the living conditions of the neighbouring occupiers.
12. In contrast, the 'as built' development which now incorporates the erection of a full width raised patio approximately 2.5m in depth, brick boundary walls to either side of the patio, the basement storage area beneath, together with the installation of obscure glazed screens at first floor level above the ground floor rear extension extends the building considerably, increasing the mass and bulk of the development. The excessive size and scale of the unauthorised development is accentuated by its visibility from a number of neighbouring properties. Therefore, despite the current development being located to the rear of the property and away from any public vantage points, the effect of the scheme is overly dominant and diminishes unacceptably the character, appearance, and integrity of this building with consequent harm to the character and appearance of the area.
13. A number of properties in area have been extended to the rear with ground floor extensions with full width patios and steps providing access to their gardens. However, during my site inspection I observed that those other patios and walls either side were not as high as the appeal development. The current appeal also includes the erection of obscure glazed screens above the ground floor rear extension. As such, the development before me is more substantial and prominent than those other developments and more harmful.
14. I therefore conclude that the development harms the character and appearance of the host dwelling and area. Accordingly, the development conflicts with Policies SP4.1, DM10 of the Croydon Local Plan, 2018 (CLP) and policies D3 and D4 of the London Plan, 2021 (London Plan). Amongst other things, these require that extensions be subservient to the host building and that development are of a high quality, which respects and enhances Croydon's varied local character.

Living conditions of occupiers of 6 Southern Avenue with regard to outlook

15. No.6 Southern Avenue has not been extended at the rear adjacent to the appeal site and also has patio doors on its original rear elevation at ground floor level close the appeal site boundary. The 2016 permission allowed a single storey rear extension along the rear boundary with No 6.
16. However, the excessive depth, height and scale of the new boundary walls to the patio along the boundary with No. 6, in combination with the single storey rear extension and obscure glazed screens above at first floor level close to the boundary No 6, results in a visually intrusive and unneighbourly form of development for occupiers of this neighbouring property. Indeed, the outlook from the garden patio and rear patio doors was restricted by this extension resulting in an increased sense of enclosure for the occupiers of this neighbouring property.

17. Consequently, the development has resulted in an unacceptably harmful effect on the living conditions of the occupiers of neighbouring property at No 6 with regard to outlook, in conflict with Policy DM10 of the CLP, and Policy D3 of the London Plan. Amongst other things, these state that that the Council will support proposals for development that ensure that; a. The amenity of the occupiers of adjoining buildings are protected, and that development proposals should deliver appropriate outlook, privacy and amenity.

Living conditions of occupiers of 6 and 10 Southern Avenue with regard to privacy and noise and disturbance

18. I appreciate that the existing gardens along the street are overlooked already by the existing windows in the rear elevation of properties. However, the use of the flat roof as a roof terrace coupled with the lack of sufficient screening, results in a greater degree of overlooking into the neighbouring gardens at Nos 6 and 10 Southern Avenue, and a loss of privacy for these neighbouring occupiers. I do not consider that the existing vegetation and trees in the rear gardens or the obscure glass privacy screens installed along the side boundaries prevents direct views into these neighbouring gardens.
19. The glazed balustrade around the flat roof and doors at first floor level facilitate the use of the flat roof of the rear extension as a terrace, which is in close proximity to neighbouring bedroom windows at first floor level in the rear elevations of Nos 6 and 10 Southern Avenue. Despite the presence of rooflights in the flat roof, the remaining flat roof area is of a reasonable size and adjacent occupiers will potentially be exposed to increased levels noise and disturbance, from people using the terrace area and conversing outside, particularly late at night when neighbours should reasonably expect peace and quiet.
20. Noise and disturbance would be particularly noticeable during summer months when neighbouring occupiers are more likely to have windows open for ventilation, and I am not convinced that the presence of the glass balustrades would be effective in terms of mitigating noise. As such, there is an unacceptable risk that the development causes harm to the living conditions of the occupiers of 6 and 10 Southern Avenue.
21. I appreciate that access to the flat roof facilitates the maintenance of the property. Nevertheless, access for maintenance can be achieved by means other than a roof terrace and doors providing direct access on to the flat roof.
22. I therefore conclude that the development fails to provide acceptable living conditions for occupiers of Nos 6 and 10 Southern Avenue, with regard to privacy and noise and disturbance. Accordingly, the development is contrary to Policy DM10 of the CLP, and Policy D3 of the London Plan, which seeks the aforementioned aims.

Conclusion on Ground (a) and the Deemed Planning Application

23. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development harms the character and appearance of the host building and area and the living conditions of the neighbouring occupiers with regard to outlook, privacy and noise and disturbance in conflict with the development plan taken as a whole. None of the other matters

raised by the appellant, including the private benefits of the scheme including improved storage facilities and making more effective use of the land outweighs the harms identified. Indeed, a generous rear garden already exists for occupiers of the site to enjoy. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.

24. For the reasons given and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail, and the deemed planning application should be refused.

The Appeal on Ground (g)

25. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 6 months to 1 year in order to appoint a tradesperson to undertake the remedial works.
26. The time for completing the requirements should be what is reasonably considered necessary to complete the requirements. In my view, 7 months would strike a more reasonable and proportionate balance to carry out the remedial works.
27. To this extent, the ground (g) appeal succeeds, and I will vary the notice accordingly.

Conclusion

28. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R. Satheesan

INSPECTOR