

For official use only (date received): 07/03/2024 15:39:33

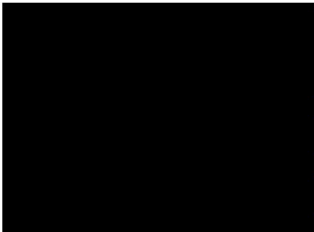
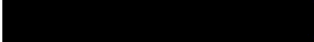
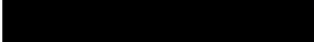
## The Planning Inspectorate

### ENFORCEMENT NOTICE APPEAL FORM (Online Version)

**WARNING:** The appeal **must** be received by the Inspectorate **before** the effective date of the local planning authority's enforcement notice.

**Appeal Reference: APP/X5210/C/24/3340242**


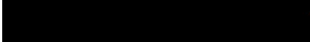
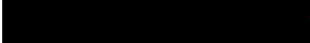
#### A. APPELLANT DETAILS

Name	Mr Anthony & Susanne Bandak
Address	
Phone number	
Email	
Preferred contact method	Email <input checked="" type="checkbox"/> Post <input type="checkbox"/>

#### A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice? Yes  No

#### B. AGENT DETAILS

Do you have an Agent acting on your behalf?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Name	Miss Saffron Frost
Company/Group Name	Savills
Address	33 Margaret Street London W1G 0JD
Phone number	
Email	
Your reference	
Preferred contact method	Email <input checked="" type="checkbox"/> Post <input type="checkbox"/>

### C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority	London Borough of Camden
LPA reference number (if applicable)	EN22/0801
Date of issue of enforcement notice	25/01/2024
Effective date of enforcement notice	08/03/2024

### D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?  Yes  No

Address: 40 Hillway  
LONDON  
N6 6HH

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?  Yes  No

What is your/the appellant's interest in the land/building?

Owner

Tenant

Mortgagee

None of the above

### E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal?  Yes  No

(a) That planning permission should be granted for what is alleged in the notice.

The facts are set out in  the box below

Grounds of Appeal (a) – Planning permission ought to be granted for the air conditioning units as they do not increase carbon emissions for the site as a whole, as set out in the expert Overheating Assessment in planning application (2023/2242/P). This is in relation to the whole house refurbishment, specifically the installation of insulation throughout. Also, the proposal does not need to be considered under the cooling hierarchy. This is only applicable for major development proposals as per the London Plan policy SI4, and Local Plan Policy CC2. These policies are therefore not applicable in the assessment of this application for householder development. Furthermore, there are exceptional circumstances that must be considered in relation to assessment of the scheme, specifically the occupier's health conditions which mean that there are no option but to keep the property windows closed. The air conditioning units will allow for the filtering of outside air and control on the indoor temperate throughout the property.

Planning permission ought to be granted as the air conditioning units continue to preserve the character and appearance of the host building and the wider Holly Lodge Conservation Area. They have no impact whatsoever on the significance of this heritage asset. There is no negative impact on views from within or adjacent to site, or from longer views within the Conservation Area, due to the proposals modest size, design and sensitive rear location, hidden from view.

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").

The facts are set out in

the box below

Grounds of Appeal (c) – The proposal does not constitute a breach of planning control because of the following. Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order") as amended, structures the permitted development rules in relation to improvement or alteration of a house. The proposal is an alteration to a roof that does not breach the limits of an 'extension' and therefore is its considered that planning permission is not required.

In addition, the proposal does not constitute a breach of planning control. Section 55 of the Town and Country Planning Act 1990 part (2) (a)(ii) discusses the meaning of "development". For the purposes of the Act carrying out improvement or other alterations of any building works which "do not materially affect the external appearance of the building," do not constitute development. It is reasonable to assess this as such as there is no impact on the appearance of the host building as a whole as there are no significant views of the air conditioning units. Therefore, there is no breach of planning control. This approach was taken on appeal APP/X5210/C/00/1042558 (04/10/2000).

(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

(e) The notice was not properly served on everyone with an interest in the land.

(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

The facts are set out in

the box below

Grounds of Appeal (f) – The air conditioning units could be housed in an enclosure, and this would reduce their visual impact. An application for the air conditioning units in an enclosure has been submitted to the Council and recently refused. An appeal is also to be made against this decision. It is confirmed that the air conditioning units will not impact the amenity of neighbours with the addition of the acoustic enclosure as noted within the expert noise impact assessment prepared by Clement Acoustics.

(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why.

The facts are set out in

the box below

Grounds of Appeal (g) – The period of compliance specified on the notice falls too short of what should be reasonably allowed. One month to ensure compliance would be extremely difficult based on the limited availability of builders within London. This would have to involve quotation, instruction, removal of the air conditioning units and repairs for any associated damage. The Appellants request that any compliance period should be a minimum period of 6 months.

## F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

(a) Could the Inspector see the relevant parts of the appeal site sufficiently to Yes  No

judge the proposal from public land?

(b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes  No

Please explain.

The inspector will need to enter the site to view the air conditioning units from within the rear garden.

2. Hearing

3. Inquiry

### G. FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice? Yes  No

2. Are there any planning reasons why a fee should not be paid for this appeal? Yes  No

If no, and you have pleaded ground (a) to have the deemed planning application considered as part of your appeal, you must pay the fee shown in the explanatory note accompanying your Enforcement Notice.

### H. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided? Yes  No

Please give details, including our reference number(s), if known.

A planning appeal for this proposal is to be submitted by 12th March 2014, in line with the planning application appeal deadline. Planning reference: 2023/2242/P.

### I. SUPPORTING DOCUMENTS

01. Enforcement Notice:

see 'Appeal Documents' section

02. Plan (if applicable and not already attached)

see 'Appeal Documents' section

### J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

**Signature** Miss Saffron Frost

**Date** 07/03/2024 15:40:11

**Name** Miss Saffron Frost

**On behalf of**

Mr Anthony &amp; Susanne Bandak

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

**K. NOW SEND****Send a copy to the LPA**

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:  
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

**You may wish to keep a copy of the completed form for your records.**

## L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to **appeals@planninginspectorate.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

**You will not be sent any further reminders.**

Please ensure that anything you do send by post or email is clearly marked with the reference number.

### The documents listed below were uploaded with this form:

**Relates to Section:** SUPPORTING DOCUMENTS  
**Document Description:** 01. The Enforcement Notice.  
**File name:** 40 Hillway - Air Con - Enforcement Notice 25.01.24.pdf

**Relates to Section:** SUPPORTING DOCUMENTS  
**Document Description:** 02. The Plan.  
**File name:** Location Plan.pdf  
**File name:** Energy & Overheating Assessment 40 Hillway Rev 2.pdf

**Completed by** MISS SAFFRON FROST

**Date** 07/03/2024 15:40:11