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## Appeal Decisions

Inquiry opened on 25th November 2014

Site visit made on 27th November 2014

**by Clive Whitehouse BA(Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 19 December 2014**

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### **Appeal A: APP/X5210/A/13/2203132 15 Gayton Crescent, London NW3 1TT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Wendy Galway-Cooper against the decision of the Council of the London Borough of Camden.
- The application Ref 2013/1031/P, dated 22 February 2013, was refused by notice dated 4<sup>th</sup> June 2013.
- The development proposed is described as "ground floor extensions".
- The inquiry sat for 3 days on 25, 26 and 27 November 2014.

**Summary of Decision: The appeal is allowed in part and is dismissed in part, as set out below in the Formal Decision.**

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### **Appeal B: APP/X5210/C/14/2217197 15 Gayton Crescent, London NW3 1TT**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Wendy Galway-Cooper against an enforcement notice issued by the Council of the London Borough of Camden.
- The Council's reference is EN14/0149.
- The notice was issued on 5<sup>th</sup> March 2014.
- The breach of planning control as alleged in the notice is "the erection of three-part rear extension ranging from single storey to four storeys".
- The requirements of the notice are to completely remove the three part rear extension and make good the rear elevation.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice as varied is upheld, as set out below in the Formal Decision.**

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### **Procedural Matters**

1. When first submitted, appeal B included an appeal on ground (d) - that it was too late for the Council to take enforcement action. That ground of appeal was withdrawn before the inquiry.

2. At the inquiry an application for costs was made by the Council against the appellant. This application is the subject of a separate decision.

## **Introduction and Background**

3. The appeals relate to existing and proposed extensions to a house on a narrow, wedge-shaped corner plot in the Hampstead Conservation Area. The house dates from the late 19<sup>th</sup> century and is detached with a three-storey front elevation. The ground falls away from the street level on Gayton Crescent, resulting in a lower ground floor to the rear of the property and a small sunken side and rear garden. To the east is a terrace of grade II listed houses at Willow Cottages.
4. The main part of the Appeal A scheme consists of a proposed two-storey side extension on the site of the sunken side garden to the south. The lower part would extend the lower ground floor, and the upper part would extend the ground floor at street level. In addition, it is proposed to construct a bay window on the north gable of the property with a step-out balcony on top to serve a first floor bedroom. A toilet extension is also proposed on the rear elevation.
5. Appeal B concerns existing rear extensions that are subject to the enforcement notice. Those extensions consist of three distinct elements - a lower ground floor toilet extension; a narrow central four storey stair tower, and a three-storey rear extension at the south eastern corner of the property with a balcony on top serving a second floor bedroom.
6. The whole building was enclosed in scaffolding and plastic sheeting for about five years from late 2008 whilst internal renovation was carried out and the rear extensions were constructed. Work progressed intermittently, and there were long periods of inactivity. The Council investigated the works on several occasions in response to neighbours' concerns, and were able to gain access to the site, although the ability to accurately measure the works was hampered by the scaffolding and sheeting. Nonetheless, the Council's Officers then concluded that the rear extensions fell within the tolerances of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) Order 1995.
7. The proposed extensions (Appeal A) were considered by the Council's Development Control Committee in May 2013. The Planning Officer recommended that planning permission should be granted, but members disagreed, and the application was refused. During the debate on that occasion questions were raised about the existing rear extensions, and members were advised that they were permitted development.
8. On re-measurement at a later date, the Council realised that the central staircase tower is less than 2m from the boundary, putting the rear extensions as a whole outside the 1995 GPDO permitted development limits. Information from neighbours also raised the question of whether the timing of the works would, in any event, have entitled the extensions to be assessed under the 1995 GPDO regulations, rather than the very different criteria of the amended GPDO that came into effect on 1<sup>st</sup> October 2008. The extensions clearly do not meet the permitted development criteria of the 2008 GPDO.

9. Lawful Development Certificate applications were made for each of the three rear elements and were refused, leading to the issuing of the enforcement notice in March 2014. The appellant now accepts that the rear extensions are not within the permitted development allowances of either the 1995 GPDO or the 2008 amendments, and there is no appeal on ground (c).

### **Appeal B – The Enforcement Notice**

10. The appeal against the enforcement notice on ground (a) is on the basis that planning permission should be granted for the development that has taken place. Having regard to the Council's reasons for issuing the notice, the main issue is the effect of the rear extensions on the character or appearance of the Hampstead Conservation Area and the effect on the setting of the listed buildings at Willow Cottages.

### ***Planning Policy***

11. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the general duty in the exercise of planning functions in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
12. Section 66 of the same Act requires the decision maker to have special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest it possesses.
13. The development plan for the area includes the Camden Core Strategy adopted in 2010. Core strategy policy CS14 seeks to conserve the diverse heritage assets of the Borough, including conservation areas and listed buildings. The Council's adopted Development Policies include DP25, which states that development in conservation areas will only be permitted if it preserves and enhances the character and appearance of the area. That is inconsistent with the statutory duty and with case law that has established that development may preserve or enhance the area. Policy DP25 also states that development will not be permitted where the Council considers it will cause harm to the setting of a listed building. Policy DP24 seeks high quality design, including for extensions to buildings.
14. The Hampstead Conservation Area Statement (2001) gives a description of the varied character of Gayton Crescent, including the Victorian villas and a group of 1960s houses. All of the houses in Gayton Crescent, including the appeal property and the group of 1960s houses are listed as making a positive contribution to the character and appearance of the conservation area.
15. Supplementary planning guidance in the form of "Camden Planning Guidance-Design/Heritage" is also relevant and that gives more detailed advice on the design of rear extensions.
16. The National Planning Policy Framework (NPPF) includes policy for conserving and enhancing the historic environment.

### **Assessment**

17. Because of the hilly nature of the area and the position of the listed cottages, which are set back from Willow Road, the four-storey rear elevation of the house is prominent when seen from the east. This is particularly the case

during the winter months (as I saw it) when the trees in the front gardens of the cottages are bare. The listed cottages lie roughly at right angles to the rear elevation of the appeal property and at a somewhat lower level. They consist of a terrace of nine cottages dating from 1866 with stuccoed frontages. The cottages are set back from the road with attractive gardens at the front.

18. No.15 Gayton Crescent previously had smaller historic rear extensions consisting of a central two-storey extension with a balcony on top, and two small single-storey extensions on either side at lower ground level. The present extensions are on a similar footprint to the historic extensions, but project by small amounts beyond the line of the pre-existing extensions (up to about 0.5m). The main differences are that the central stair tower extends up to eaves level, and that the extension at the south east corner is three storeys high with a balcony on the top.
19. The Council describes the rear extensions with their different heights and projections as "lumpen, haphazard and asymmetrical"; giving an unbalanced appearance to what was formerly a plain and largely symmetrical elevation. The small roof to the stair tower breaches the simple eaves line of the original house. French windows have been constructed at second floor level onto the balcony of the south east corner extension, where there had previously been a windowless wall. In the Council's view the extensions have an overbearing appearance, rising over the front garden of the nearest listed cottage at 41 Willow Road. Having regard to the Council's supplementary planning guidance it is contended that the uneven and asymmetrical character the rear extensions does not respect the original form and architectural detail of the house, and introduces alien elements at a high level. The advice on rear extensions is that they should normally not extend higher than one storey below the eaves.
20. Evidence was submitted in support of the Council's decision on behalf of a group of local residents accorded Rule 6 status. In addition to the Council's objections, they emphasise that the rear of the appeal property is in a very prominent position in relation to the front gardens of Willow Cottages and that the bulky rear extensions loom over the cottages. The previously comparatively plain and simple rear elevation has been lost and some of the decorative brickwork at eaves level obscured. The addition of French windows and doors has increased the extent of overlooking.
21. It appears to me that the three elements of the rear extensions have not been designed as a coherent entity. They appear to have been built to address different perceived shortcomings of the internal space, resulting in an unbalanced external appearance.
22. I have considered whether it is necessary to deal with the rear extensions as a whole or whether they may be considered separately, and this option was raised at the inquiry. Section 177(1)(a) of the 1990 Act states, in respect of enforcement appeals, that permission may be granted "whether in relation to the whole or any part" of the matters described as constituting the breach of planning control. Although the south east corner extension is contiguous with the central stair tower, it is a structurally separate element, and there is no direct internal linkage between the two. I propose to deal with that element separately.
23. In my view the visual harm caused by the rear extensions derives from the design and height of the extension on the south east corner. That is the

bulkiest element and it also results in the unbalanced effect. I agree with the Council that the construction of the balcony and French windows at the second floor level is a discordant design feature; at odds with the previous relatively plain rear elevation. In addition to its prominence from Willow Road, the south east corner extension and its balcony are clearly visible from Gayton Crescent.

24. I consider that the rear south east corner extension conflicts with the architectural style and symmetry of the original building. Because of its bulk, prominence and design, I conclude that it fails to preserve the character or appearance of the Hampstead Conservation Area. For the same reasons, and having regard to its proximity and prominence in relation to the listed buildings at Willow Cottages, it also harms their setting. I consider that the rear south east corner extension with balcony and French windows conflicts with the design and conservation objectives of adopted policies CS14, DP24 DP25 and supplementary design guidance. I intend to refuse planning permission and uphold the requirements of the enforcement notice in respect of the south east corner extension.
25. I turn now to consider the planning merits of the central stair tower and the lower ground floor toilet extension. The stair tower projects from the rear wall by about 1.6m and is about 2.2m wide. It has replaced a wider, two-storey rear extension with a balcony, the parapet of which appeared (from photographs) to have been inappropriately constructed from modern garden walling blocks.
26. As a central feature, the stair tower maintains the symmetry of the house. I note that the Council's supplementary guidance advises that in most cases rear extensions higher than one full storey below roof eaves level will be discouraged, but that is qualified by the advice that "where a higher extension is appropriate, a smaller footprint will generally be preferable to compensate for any increase in visual mass". As a narrow tower, I consider that the extension complies with the design guidance and I consider that its additional height has no unacceptable visual effect on its surroundings. The tower joins the main roof with a small "cat slide" sloping roof and I note that the other semi-detached Victorian villas in Gayton Crescent have very similar side extensions, which appear to be original features. Some original brick detailing at eaves level would be obscured but that is such a small amount that it is of little consequence.
27. The lower ground floor toilet extension replaced a smaller lean-to extension in the same approximate position. It has a temporary roof covering because the appellant proposes under Appeal A to add an additional floor to create a toilet at ground floor level. Considering only the existing, lower ground floor building at this point, it is partly visible above the boundary wall of No.41 Willow Road, but it is seen as a small element against the main wall of the house. It is a material consideration that the Council accepts that if it had been built separately from the other rear extensions (with eaves not exceeding 3m) it would have been permitted development under the GPDO.
28. I consider that the central stair tower and the lower ground floor toilet extension preserve the symmetry and the character and appearance of the host building and the Hampstead Conservation area.
29. I consider the most important part of the setting of the listed cottages to be their gardens fronting Willow Road. No.15 Gayton Crescent was built a couple

of decades after the cottages, and its prominent rear elevation has been part of the setting of the cottages ever since. The replacement of the previous rear extensions by the stair tower and the lower ground floor toilet does not in my judgement significantly change that relationship, and the present extensions are seen against the main wall of the house. For those reasons, I conclude that those elements do not harm the setting of the listed buildings and that they comply with the requirements of the design and conservation objectives of adopted policies CS14, DP24 DP25 and supplementary design guidance.

30. There was discussion at the inquiry on conditions that might be appropriate in the event of planning permission being granted for all or part of the extensions subject to the enforcement notice. The demolition of the south east corner extension will expose the attached part of the stair tower, and details are needed to show how that wall would be finished. For reasons that are explained below in this decision, I do not intend to permit an additional floor to be added on top of the lower ground floor toilet extension. A condition is therefore necessary to require details of the means of roofing and completing that existing single-story rear extension. It was also proposed that permitted development rights for further extensions should be withdrawn in the event of planning permission being granted for any part of the existing extensions and that no new windows should be inserted on the rear elevation. I understand that an Article 4 Direction already restricts alterations to the front of the house, but permitted development rights remain for single storey rear extensions, and the extent of those rights was discussed at the inquiry. In view of the restricted space around the house and its sensitive location, I consider it reasonable and necessary to attach a condition withdrawing those permitted development rights.
31. The appeal succeeds on ground (a) for the existing rear stair tower and the lower ground floor toilet extension, and planning permission will be granted, subject to conditions. The appeal fails and planning permission will be refused for the south east corner extension.

### **Appeal on Ground (f)**

32. The appeal against the enforcement notice on ground (f) is on the basis that lesser steps than complete demolition would overcome the objections. To a large extent this matter has been addressed by the partial grant of planning permission under ground (a).
33. No detailed scheme had been submitted for consideration under this ground, but it was argued on behalf of the appellant that any requirement for demolition should not include rear lower ground floor extensions that would be permitted by the GPDO as presently amended. As explained, above, those permitted development rights have been withdrawn by a condition attached to the partial grant of planning permission, so they are no longer available as a fall-back position.
34. I recognise that there may be scope for some sort of lower ground floor extension in the position of the south east corner extension, but in the absence of a detailed scheme, I am not in a position to consider that as a lesser step. I note that concerns were raised on behalf of neighbours about the effect of the existing lower ground floor double doors and roller shutter in that position.

35. The appeal on ground (f) fails, but I will allow time under ground (g) for the appellant, if she chooses, to apply to the Council for a single-storey scheme at lower ground level which, if permitted, would over-ride the requirement to completely demolish the lower ground floor part of the south east corner extension.

### **Appeal on Ground (g)**

36. The enforcement notice gives three months as the period for compliance. The appellant has suggested 24 months as being necessary, and the Council has indicated that it would accept a 9 month compliance period.
37. The partial grant of planning permission reduces the amount of demolition work required, and it reduces the extent of disruption to the appellant's family whilst the work is carried out. As explained above, I consider that it would be reasonable to allow some time for discussions and a decision to be made on the possibility of a single storey extension at lower ground floor level in the position of the south east corner extension. I consider that nine months is sufficient time for that to take place and for the enforcement notice to be complied with, and I will vary the enforcement notice accordingly.

### **Appeal A**

38. The main issue in this case is the effect of the proposed extensions on the character or appearance of the Hampstead Conservation Area and the setting of the listed buildings at Willow Cottages, with particular regard to the reduction in the visual gap between the appeal property and No.14 Gayton Crescent.

### ***The Southern Side Extension***

39. The policy context, as outlined for appeal B, above, applies equally to the proposed extensions.
40. The lower ground floor extension would not be visible from Gayton Crescent, although it would be visible from a side window at 41 Willow Road. At the ground floor level the side extension is described as an "orangery" and would be about 5m square with a small set back from the front elevation. It would have decorative brick dentils and a raised parapet aligned with the height of the front bay windows on the host building. The glazed roof would not be visible from street level behind the parapet
41. The appellant sought pre-application advice in 2008 on sketch proposals for an extension in that space, and was advised that they should be acceptable in principle. An application was submitted in 2012 for a more conventional conservatory-style extension in that position, but was withdrawn on officer advice because of reservations about the design and materials.
42. The Council's objections to the side extension now proposed are not concerned with its detailed design, but with the extent to which it occupies the gap between Nos.14 and 15 and the extent to which it is considered to disturb the symmetry of the front elevation.
43. The gap is about 6m wide and is defined by the gables of the houses on either side. No.14 is a semi-detached Victorian house with a modern utilitarian attached garage and porch forming part of the boundary. The view through

the gap was restricted by builder's hoardings at the time of my visit, but there are several photographs in the evidence that show that the brick side gable of the listed building at 41 Willow Road is visible through the gap. The semi-detached Victorian villas on the same side of Gayton Crescent have narrower gaps between them of about 3m.

44. Paragraph 43 of the Hampstead Conservation Area Statement indicates that *"Normally the filling of gaps between buildings will be resisted where an important gap is compromised or the symmetry of the composition of a building would be impaired. Where side extensions would not result in the loss of an important gap, they should be single storey and set back from the building line"*. The Camden Design Guidance also indicates at 4.17 that *"The infilling of gaps will not be considered acceptable where significant views or gaps are compromised or blocked"*.
45. From the photographs and from the other perspectives gained during my inspection, the gap does not give an eye-catching distant view of the townscape of the area, but a view of the gable of 41 Willow Road. The Council acknowledges that the listed terrace, with its stuccoed frontages, was only intended to be seen from Willow Road. The later construction of the houses on Gayton Crescent resulted in an unintended side view of the rather plain brick gable of No.41, which the Council considers to be of interest. In my assessment, the glimpse of the gable end of the cottages through the gap is not a significant part of their setting.
46. The extension would occupy the gap at street level, leaving a passage of about 1m to the boundary with No.14. The full width of the gap would continue to exist between the houses at first and second floor levels and I consider that this would preserve the sense of detachment of No.15 in the street scene. I conclude that the gap is not an "important gap" in the terms of the Conservation Area Statement and that the advice given there (that extensions in those circumstances should be single-storey and set back from the building line) applies to the circumstances of this case.
47. I consider it significant that the principle of development within the gap was not raised as an issue with the appellant during discussions with Council officers between 2008 and the Council's refusal of the application in 2013.
48. The Council's appeal case refers to the "doll's house" proportions and symmetry of the house. The side gables are plain and windowless and it is contended that the proposed side extension would unacceptably affect that simple form and symmetry.
49. The extension has been carefully designed to reflect the style of the house, and it is subordinate in scale. The Council's supplementary design guidance gives an illustration of the preferred design of side extensions, and that example is very similar to the proposed side extension in this case. The guidance is not specific to conservation areas, but the example given in the illustration is of a small side extension to a Victorian-style property.
50. I consider that the proposed side extension would not harm the "doll's house" proportions or symmetry of the existing house in the street scene, and that it complies with the design and conservation objectives of adopted policies CS14, DP24, DP25 and supplementary design guidance.



51. From Willow road there is one point where part of the extension could be seen at an angle through a gap between the buildings, but that would be such a narrow and restricted view that it would barely register and would not harm the setting of the cottages.
52. I conclude in respect of the proposed southern side extension that it would preserve the character and appearance of the Hampstead Conservation Area and that it would preserve the setting of the listed buildings.
53. Representations were made on behalf of the occupiers of the cottage at 41 Willow Road to the effect that the proposed southern side extension would unacceptably affect the daylight, sunlight, outlook and privacy in relation to a side window. Unusually, because of the historical juxtaposition, that window looks directly onto the rear garden of the appeal property.
54. Those representations were also made to the Council before the application was determined, but they were not supported as part of the reason for refusal. It is not part of the Council's case for the purpose of the appeal that the proposed side extension would have an unacceptable effect on the light and outlook from that window.
55. I assessed the situation from inside No.41. The main light and outlook for the front ground floor room is from the front window, but stairs lead from the back of the room, and the window in question is set half way up the stairs at the point where they turn. It therefore mainly provides light to the stairs, but also gives some daylight to the back of the room and occasional late afternoon sun. Whilst the proposed extension would probably have a small effect in terms of the amount of daylight and sunlight reaching that window, I consider that the effect would not be unacceptable, given the position and secondary nature of the window.
56. In order to see the proposed extension from the window in question, it would be necessary to crouch down at the turn of the stairs, and I do not consider that the proposal would unacceptably affect the outlook or privacy of the occupiers of No.41 Willow Road.
57. Planning conditions were discussed in the event of planning permission being granted. In addition to standard commencement and approved drawings conditions, a condition is suggested requiring materials to match the existing building. The submitted drawings also show the existing south east corner extension, which is to be demolished, and other proposed extensions and it will be necessary to specify the works for which planning permission is granted.
58. For the above reasons, and having regard to all other matters raised, the appeal succeeds in respect of the proposed southern side extension, and planning permission will be granted.

### ***Proposed Northern Bay Window and Balcony***

59. It is proposed to insert a bay window into the blank north gable of the house, with a balcony on top together with a new side window to the first floor bedroom. The Planning officer's Committee report in May 2013 recommended that the bay window would compliment and provide visual interest to the blank side elevation of the host building, but the Council's appeal statement contends that these works are unduly bulky and introduce two large window openings and a roof terrace into a plain wall that is part of the character of the house.

60. The orientation and spacing of development to the north is such that there is no issue in terms of privacy. In my assessment, the bay window itself would closely match the two ground floor bay windows on the front elevation and would not harm the appearance or symmetry of the host building. However, I consider that the first floor window and the step-out balcony with metal railings on this prominent corner site would harm the simple and unadorned character of the house at the upper levels, and thereby fail to preserve the character and appearance of the house and the Hampstead Conservation Area. For that reason only, the appeal fails in respect of the proposed northern bay window and balcony.

### **Proposed Ground Floor Toilet Extension**

61. It is proposed to add another toilet extension on top of the incomplete lower ground floor toilet extension. The appellant points out that the house lacks a ground floor toilet at present, which is a reasonable and normal requirement.
62. The lower ground floor toilet extension is quite unobtrusive, but the addition of a further floor with the same outline would make it much more prominent in the view from Willow Road and from the front gardens of the listed cottages. In my view its obtrusive appearance would be emphasised by its irregular outline and the fact that it would extend closer to the cottage boundary than the central stair tower. The convenience of a ground floor toilet is not an overriding consideration in justifying the proposed extension in that position. I conclude that the proposed ground floor toilet extension would fail to preserve the character and appearance of the Hampstead Conservation Area and the setting of the listed buildings. The appeal fails in respect of the ground floor toilet extension.

## **Formal Decisions**

### **Appeal A: APP/X5210/A/13/2203132**

63. The appeal is dismissed insofar as it relates to the proposed northern bay window, balcony and first floor window, and the proposed rear ground floor toilet extension. The appeal is allowed insofar as it relates to the proposed southern, two-storey side extension at 15 Gayton Crescent London NW3 and planning permission is granted in accordance with the terms of the application, Ref 2013/1031/P, dated 22<sup>nd</sup> February 2013, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) This permission relates only to the proposed two-storey extension at lower ground and ground floor levels to be attached to the south elevation of 15 Gayton Crescent, as shown on the detailed drawings submitted with the application. This permission does not extend to any other existing or proposed extensions to 15 Gayton Crescent that are shown on the submitted drawings.
- 3) All new external work shall be carried out in materials that resemble as closely as possible in colour and texture those of the existing building.

**Appeal B: APP/X5210/C/14/2217197**

64. The appeal is allowed insofar as it relates to the stair tower and the single-storey lower ground floor toilet extension and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the existing stair tower located centrally on the rear elevation of the building and the single-storey toilet extension at lower ground floor level on the rear elevation subject to the following conditions:

1. The building operations hereby permitted shall be demolished to ground level and materials resulting from the demolition shall be removed within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
  - i) within 2 months of the date of this decision a scheme for (a) making good the flank wall of the stair tower where it adjoins the south east corner extension (which is to be demolished), and (b) for the completion and roofing of the lower ground floor toilet extension shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
  - ii) within 10 months of the date of this decision, if the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
  - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, as amended, no enlargement, buildings or the formation of new windows shall be carried out under Part 1 Class A, Class B, Class C or Class E without the prior written agreement of the Local Planning Authority.

65. The enforcement notice is varied by deleting paragraph 5 of the notice and substituting the following requirements.

**WHAT YOU ARE REQUIRED TO DO**

Within nine months of the date of this decision:

- (i) Completely demolish the three-storey extension and balcony located at the south east corner of the house and remove from the land all materials resulting from the demolition.
- (ii) Restore the part of the rear wall of the house to which the extension is attached to its condition before the development occurred, including the removal of the French windows that open onto the balcony.

66. The appeal is dismissed and the enforcement notice is upheld, as varied, insofar as it relates to the three-storey rear extension and balcony located at the south east corner of the house and planning permission is refused in respect of the application deemed to have been made for that element under section 177(5) of the 1990 Act as amended.

*C Whitehouse*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mathew Horton QC  
He called

Barrister, instructed by the appellant.  
David Whittington BA(Hons), DipTP, MRTPI,  
Director of Savills UK.

### **FOR THE LOCAL PLANNING AUTHORITY:**

Giles Atkinson  
He called

Barrister, instructed by the Council's Head of Law  
Nick Baxter, MSc, BA(Hons), Heritage and  
Conservation Officer.  
Gary Bakall BPlan(Hons) DipTP Principal Planning  
Enforcement Officer.  
Jonathon McClue BPlan (Hons) Planning Officer.

### **INTERESTED PERSONS:**

David Stone

Representing a group of local residents granted  
Rule 6 status in the appeal.

Linda Chung

Former ward Councillor.

## **DOCUMENTS submitted at the inquiry**

1. Copy letters of support for the appellant.
2. Aerial photograph of Gayton Crescent.
3. Plans showing previous and existing floor layouts (with overlay).
4. Extract from "Site layout planning for Daylight and Sunlight and plan showing angle from window of No.41 Willow Road.
5. Closing submissions on behalf of Rule 6 Parties.
6. Closing submissions on behalf of Local Planning Authority.
7. Application for a partial award of costs on behalf of the Local Planning Authority.
8. File containing copies of inquiry core documents.