

**PLANNING COMMITTEE
13 NOVEMBER 2018**

**APPEAL BY MR & MRS BROWN AGAINST THE DECISION OF THE COUNCIL
TO ISSUE AN ENFORCEMENT NOTICE IN RELATION TO AN UNAUTHORISED
CONSERVATORY AT 9 SOUTH AVENUE, SEBASTOPOL, PONTYPOOL, NP4
5BN (17/ENF/0180)**

*Report submitted by: Richard Lewis, Head of Development Control
Report written by: Catherine Jones, Senior Planner Enforcement*

Purpose of Report

To inform members of a planning enforcement appeal which was been made to the Welsh Assembly Government and their subsequent determination.

DECISION: APPEAL DISMISSED AND ENFORCEMENT NOTICE UPHELD

This appeal was determined by means of written representations.

In mid-2017, a complaint was received by the Planning Enforcement Team in relation to a conservatory at the above site. As efforts to resolve the matter informally failed, an enforcement notice was issued by the Council on 16 February 2018 for the following reasons:

It appears to the Council that the above breach of planning control has occurred within the last 4 years.

The conservatory, by virtue of its scale, position and design has a significant detrimental impact on the residential amenity of the adjoining occupiers at no. 11 South Avenue in terms of overlooking and overbearing impact. The development is therefore contrary to Policy BW1 A vii) of the Torfaen Local Development Plan.

The conservatory, by virtue of its bulk, massing and length, is considered to be an incongruous feature, which is out of character with the host dwelling and surrounding area contrary to Policy BW1 A ii) and v) of the Torfaen Local Development Plan.

The notice requires the following:

- (i) Demolish the conservatory and remove the resultant material from the land.*
- (ii) Restore the land to its former condition prior to the breach taking place.*

Mr & Mrs Brown exercised their right of appeal to the notice and appealed on the following grounds:

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

Ground (e): *That copies of the enforcement notice were not served as required by Section 172 of the Town and Country Planning Act 1990 as amended.*

Ground (f): *That the steps required to comply with the enforcement notice are excessive and lesser steps would overcome the objections.*

Ground (g): *That any period specified in the notice in accordance with Section 173(9) falls short of what should reasonably be allowed.*

The following images show the unauthorised conservatory in situ:



In considering the appeal under ground (a), the inspector stated the following:

“I am in no doubt that the conservatory as built has an overly dominant and unacceptably overbearing impact upon the living conditions of occupiers of No 11. I consider that the conservatory is unacceptably harmful by reason of its size and raised position on the boundary. In the light of this I conclude that the conservatory extension fails to satisfy the provisions of policy BW1 A i), ii) and vi) of the adopted Torfaen Local Development Plan (LDP).”

The Inspector also stated that:

“As built, the conservatory has extensive clear glazing along its side elevation facing No 11. This permits direct overlooking of the private amenity space of No 11 and towards the rear-facing windows of No 11 from inside No 9 to a much greater degree

than was previously the case. I conclude that the conservatory as built unacceptably harms the privacy of occupiers of No 11, and thereby again fails to satisfy LDP policy BW1 A vi) concerning avoidance of unacceptable impact upon adjoining occupiers.”

As such, the appeal under ground (a) was dismissed.

Under the appeal under ground (e), the inspector concluded that the Local Planning Authority had served the notice correctly as required by Section 172 of the Town and Country Planning Act 1990 as amended. The appeal failed under this ground.

In considering the appeal under ground (f), the Inspector assessed an amendment to the existing scheme, which was to replace the glazing along the boundary with no.11 with blockwork in an effort to overcome objections to loss of privacy. The Inspector concluded that the merits of the modified scheme would not result in an acceptable way forward, and as such, dismissed the appeal under ground (f).

Whilst considering the appeal under ground (g), the Inspector concluded that a 4 month time period for compliance with the Enforcement Notice was reasonable, and the request to extend this time period was refused, as it would result in an extended period of ongoing harm to the neighbours at no.11.

The enforcement notice has now come into effect and is due to be complied with by 02 March 2019.

APPEAL BY MR & MRS BROWN AGAINST THE DECISION OF THE COUNCIL TO ISSUE REFUSE A PLANNING APPLICATION FOR THE RETENRION OF AN UNAUTHORISED CONSERVATORY AT 9 SOUTH AVENUE, SEBASTOPOL, PONTYPOOL, NP4 5BN (17/P/0966/HH)

DECISION: APPEAL DISMISSED

This appeal was determined by means of written representations and ran parallel with the appeal to the enforcement notice (detailed above).

Following an enforcement complaint received by the Council in mid-2017, a planning application was submitted in an effort to retain an unauthorised conservatory at the above site as built (reference number 17/P/0666/HH). This application was refused in October 2017 on the following grounds:-

- 1 *The conservatory, by reason of its scale, position and design has a significant detrimental impact on the residential amenity of the adjoining occupiers at no. 11 South Avenue in terms of overlooking and overbearing impact. The development is therefore contrary to Policy BW1 A vii) of the Torfaen Local Development Plan.*
- 2 *The conservatory, by virtue of its bulk, massing and length, is considered to be an incongruous feature, which is out of character with the host dwelling and surrounding area contrary to Policy BW1 A ii) and v) of the Torfaen Local Development Plan.*

In an effort to overcome objections, a subsequent application was submitted (reference number 17/P/0966/HH). This application proposed to replace the glazing along the boundary with the neighbouring property at no.11 with rendered blockwork. The application was refused on the same grounds as the previous application in February 2018.

Mr & Mrs Brown (the applicants) exercised their right to appeal the refusal, and an appeal was lodged accordingly.

In considering the development in the proposed amended form, the Inspector stated the following:

“The resultant solid wall area would, if anything, accentuate the physical presence of the structure and its overbearing impact upon the adjacent occupiers. I therefore conclude that this modification to the design would not succeed in achieving an acceptable outcome, and that the development would still conflict with the development plan”.

On this basis, the amended scheme was not considered to be an acceptable development, and the appeal was dismissed.

The enforcement notice served has now come into effect and is due to be complied with by 02 March 2019.

Appendices	None
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For further information about this report, please telephone: Richard Lewis, Head of Development Management (Tel 01633 647628)
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