
Appeal Decisions

Site visit made on 2 November 2016

by V F Ammoun BSc DipTP MRTPI FRGS

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

Decision date: 22 November 2016

Appeal Ref: APP/G5750/C/16/3145813-14

35 Glenparke Road, Forest Gate, London E7 8BP

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Tajul Alam (appeal 3145813) and Ms Jabeda Khanam (appeal 3145814) against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice, reference 15/00942/ENFC was issued on 8 February 2016.
 - The breach of planning control as alleged in the notice is *Without planning permission the erection of an enclosure (composed of a brick wall, concrete pier caps, metal gate and railings)*.
 - The requirements of the notice are (1) *Demolish the enclosure (composed of a brick wall, concrete pier caps, metal gate and railings) as shown edged yellow on the photograph attached as Appendix 1* (2) *On completion of step 1 above, remove all materials and debris from the site.*
 - The period for compliance with the requirements is three months.
 - The appeals are proceeding on the grounds set out in section 174(2) [e] and [f] of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
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Summary of decision: the appeals succeed on ground (f) and the notice is altered and upheld accordingly, as set out in the Formal Decisions.

Preliminary matters

1. The appeals are made on grounds (e) and (f) only. These are legal grounds of appeal and have to be decided on the basis of fact and law, and without considering questions of planning merit. I confirm that I have dealt with the appeals on that basis.
2. The appeal inspection was going to be accompanied, but when it was pointed out that the enclosure adjoined and could clearly be seen from the street neither party objected to my inspection being unaccompanied.
3. Both appellants were represented by the same agent, and the case put forward was the same for both. Therefore I do not distinguish between the two appeals in what follows.

The appeals on ground (e)

4. An appeal on ground (e) claims that the notice was not properly served on everybody with an interest in the land. The grounds of appeal document said that the facts would be set out in a "statement of appeal to follow", but when
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the statement was received it did not include any evidence or argument on this point. The Council, on the other hand, provided evidence that it had properly served the notice. The present appeals have been lodged, and there is no evidence that the appellants have been disadvantaged by any defect in service. On the evidence before me, therefore, the appeals on ground (e) fail.

The appeals on ground (f)

5. The enclosure enforced against has been altered by the removal of the metal gate, railings, and concrete pier caps, and by lowering the height of the projecting gate piers and a corner pier. The Council has no objection to the enclosure as it now is. It therefore does not resist the appellants' argument that these lesser steps should be substituted for demolishing the whole enclosure. In these circumstances the appeal on ground (f) succeeds and I shall amend the requirements of the notice to limit its requirements to the changes which have been made.
6. **Formal Decisions – appeals APP/G5750/C/16/3145813 and 3145814**
7. The appeals are allowed on ground [f], and the enforcement notice is varied: by the deletion of requirement 1 in paragraph 5 and the substitution of the following requirement: *(1) Remove the metal gate and the railings and the three concrete pier caps shown edged yellow on the photograph attached as Appendix 1, and lower the height of the three piers to a level above the main frontage wall of 2 full bricks and a part brick.* Subject to this variation the enforcement notice is upheld.

V F Ammoun

INSPECTOR