
Appeal Decision

Site visit made on 28 November 2016

by C Sherratt DipURP MRTPI

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

Decision date: 03 January 2017

Appeal Ref: APP/Y5420/C/16/3149606
128 Risley Avenue, London, N17 7ER

- 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 Ms Fernella Jillim against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The enforcement notice was issued on 6 April 2016.
 - The breach of planning control as alleged in the notice is unauthorised installation of hardstanding to the front garden of the property.
 - The requirements of the notice are to
 - (1) Remove the unauthorised hardstanding;
 - (2) Remove all resultant debris as a result of complying with requirement above.
 - The period for compliance with the requirements is two (2) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(d) 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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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Reasons

2. For the appeal to succeed on ground (d) the onus is on the appellant to demonstrate that, on the balance of probability, it was too late for the Council to take enforcement action against the installation of the hardstanding. The time limit within which the Council must take enforcement action for operational development such as this is 4 years. It is therefore necessary for the appellant to demonstrate that the unauthorised hardstanding was installed and substantially complete before 6 April 2012 ('the relevant date').
3. The appellant explains that there are two sections to the front garden – section A being the gateway to the door and section B the garden itself. The appellant stipulates that the work began on section B "in April 2012" after which the builder was asked to give a quote for section A. The builder was then paid in full and promised to come back the following week to commence the work on section A. The appellant confirms that it was many weeks before the builder returned to complete the job but she cannot recollect the exact date. In addition the appellant has submitted an invoice dated 26 April 2012 that includes the description "To supply & fit tile to front garden" with reference to two areas and the cost.

4. It is not clear when the works to install either part of the hardstanding were substantially completed. The only source of supporting evidence is the invoice. It is dated 26 April. The evidence is not sufficiently precise or unambiguous to demonstrate, on the balance of probability, that the works referred to in the enforcement notice were substantially complete before 6 April 2012. Furthermore the images supplied by the Council show that the red tiles remained in place, at least in relation to Section A, in July 2012.
5. The points made by the appellant about the slippery nature of the tiles that were previously in place and the cost of complying with the notice are not matters that I am able to take into account when determining an appeal made under ground (d) which is solely concerned with whether it was too late for the Council to take enforcement action. Whilst the appellant has made reference to the front wall of the property, the notice is not directed at the wall and so it has no bearing on this decision.
6. For the reasons given above I conclude that the appeal should not succeed.

Claire Sherratt
INSPECTOR