

Appeal Decision

Site visit made on 29 December 2016

by Andrew Dale BA (Hons) MA MRTPI

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

Decision date: 18 January 2017

**Appeal Ref: APP/Y5420/C/16/3153104
429-429A Green Lanes, London N4 1HA**

- 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 Yenilmez Ltd against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The enforcement notice was issued on 23 May 2016 under ref. DEP/2015/00126.
 - The breach of planning control as alleged in the notice is: "The unauthorised installation of a flue and associated extractor ducting".
 - The requirements of the notice are set out as follows:
 - "i. Remove the extractor flue and associated ducting in its entirety
 - ii. Remove all resultant debris".
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the ground set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.
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Decision

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

Background and matters of clarification

2. The appeal property is a part two-storey, part three-storey building situated at the junction of Green Lanes and Cavendish Road. A restaurant occupies the ground floor. There are various flats on the first and second floors.
 3. There appears to be no confusion that the enforcement notice is directed at the unauthorised extraction flue and ducting which have been installed on a flat part of the roof roughly towards the centre of the appeal site. The metal ducting is rectangular in section and points upwards at the top open end. Attached to that top end by short metal rods is a metal cowl/hat.
 4. The enforcement notice is not concerned with an older extraction system that has been fitted to the far western (rear) wall of the appeal property.
 5. On the original appeal form, a tick was placed against ground (b), that the breach of planning control alleged in the enforcement notice has not occurred as a matter of fact. The Planning Inspectorate pointed out to the appellant that the facts supplied on the appeal form seemed to suit an appeal on ground (g), that the time given to comply with the notice is too short. The appellant's
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subsequent representations confirmed that the appeal should proceed on ground (g). The planning merits of the development are not before me.

The appeal on ground (g)

6. The issue under this ground is simply whether the time allowed for compliance with the enforcement notice falls short of what should reasonably be allowed. One month has been given in the notice. The appellant has not actually stated what a more reasonable period might be.
7. The gist of the appellant's case involves the planning permission that was issued under ref. HGY/2015/1547 on 10 March 2016 for the repositioning and reinstallation of air conditioning units and an extractor flue for the restaurant. The relevant planning application was first submitted in May 2015 following advice from the Council that the subject extractor flue was not acceptable in its current form. The appellant would like more time to comply with the approved plans and conditions.
8. The planning permission required remedial works to be carried out to the extraction flue and, because of the retrospective nature of the application, two of the planning conditions incorporated strict time limits for action. From the Council's point of view, the agreed alterations to the extraction flue that were required to implement the permission have not been carried out and as such the development does not benefit from planning permission.
9. Whilst I have carefully studied the written representations made with regard to the planning permission, it is important to record that this is an appeal against an enforcement notice. I note that the stated harm in the reasons for issuing the notice – excessive noise levels and odour emissions – caused by the unauthorised development must have persisted now since at least May 2015. It is important that this is addressed without any further delay. I do not consider that there is a good reason to allow this harm to continue. The physical works required by the notice are very straightforward.
10. As there is no appeal on any other ground, I am also mindful that about seven months have elapsed since the appeal was submitted with enforcement action being effectively suspended. Therefore, as the compliance period will begin again from the date of this decision the appellant will effectively have had around eight months to carry out the necessary works to comply with the requirements of the notice, as well as to engage in discussions with the Council about the development and the planning permission issued in March 2016.
11. On all the evidence before me, I find that the one-month compliance period is reasonable. Should any unforeseen difficulties arise the Council has the option to extend the compliance period, at its own discretion, using its powers under section 173A (1) (b) of the 1990 Act as amended.
12. Taking into account the above and all other matters raised, I conclude that the appeal on ground (g) should not succeed. The enforcement notice is upheld without variation.

Andrew Dale

INSPECTOR