
Appeal Decision

Site visit made on 27 February 2017

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

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

Decision date: 13 March 2017

Appeal Ref: APP/A5270/C/16/3158723

9 Alfred Gardens, Southall UB1 2BD

- 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 Mr M Qadir against an enforcement notice issued by the Council of the London Borough of Ealing.
- The enforcement notice, numbered COM/2016/00009(1) was issued on 10 August 2016.
- The breach of planning control as alleged in the notice is without planning permission the erection of an additional single storey rear extension.
- The requirements of the notice are :
 - A. Remove the additional single storey rear extension in its entirety; and
 - B. Remove all resultant debris.
- The period for compliance with the requirements is three 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.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Application for costs

1. An application for costs was made by the Council against the Appellant. This application is the subject of a separate Decision.

Procedural matter

2. In his final comments the Appellant enclosed a copy of an approved drawing¹ dated 14 August 2014 for development at the appeal site. He submits that the original footprint was maintained but the walls and roof were upgraded to meet current Building Control Regulations and that no new extensions were carried out. These final comments introduce new grounds of appeal but the Council has suffered no prejudice because the history of the appeal site was fully covered in its statement. I will consider the Appellant's email as constituting appeals on grounds (b) and (c)

The appeals on grounds (b) and (c)

3. In appeals on ground (b) and (c) the Appellant is saying that the breach of planning control alleged in the notice has not occurred as a matter of fact and that those matters (if they occurred) do not constitute a breach of planning control.

¹ No 7502/P/03/A

4. The Council advises that planning permission was granted for the conversion of the dwellinghouse at the appeal site into two self-contained flats on 4 March 2015². Aerial photographs in the Council's statement show that in 2011/2012 there was an additional single storey rear conservatory but it is also apparent from a complaint received by the Council and from inspections by Building Control Officers that the conservatory was demolished, new foundations were dug and a materially different extension was built.
5. As a matter of fact an additional single storey rear extension has been built and no planning permission has been applied for or granted for it. Given the depth of the extension it is not permitted development pursuant to Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 as amended.
6. The appeals on ground (b) and (c), although none were formally made, fail.

The appeal on ground (d)

7. In an appeal on ground (d) the Appellant has to show that at the date the notice was issued no enforcement action could be taken in respect of the matter alleged in the notice. In this appeal this means that the Appellant has to prove on the balance of probabilities that the additional single storey rear extension was substantially completed four years before the date of the notice.
8. Other than stating on the appeal form that the rear extension was built in 2011 the Appellant has not provided any evidence in respect of this ground of appeal. He did, however, provide the Council with some builder's receipts for work done in 2011 which have been reproduced and commented on by the Council in its statement.
9. Only one of the receipts dated October 2011 refers to the appeal site and therefore the others could relate to any property not necessarily 9 Alfred Gardens. The document from G&B Windows (International) Ltd shows drawings of French windows and refers to a polycarbonate roof neither of which is included in the extension that is the subject of the notice. It therefore seems to me that these documents relate to the conservatory that has been demolished.
10. It is the Appellant's own case from his final comments that the single storey extension formed part of the works granted permission in March 2015 and photographs included in the Council's statement dated February 2016 show building works being undertaken to the extension. The single storey rear extension was therefore built in 2015/2016 and it is not immune from enforcement.
11. The appeal on ground (d) therefore fails.

Conclusions

12. For the reasons given above I conclude that the appeal should not succeed and I shall uphold the enforcement notice.

Decision

13. It is directed that the appeal is dismissed and the enforcement notice is upheld.

Gloria McFarlane Inspector

² P/2014/5455