
Appeal Decision

Site visit made on 11 April 2017

by Simon N Hand MA

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

Decision date: 2 May 2017

Appeal Ref: APP/T5150/C/17/3167157

51 Uxendon Hill, Wembley, HA9 9SQ

- 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 Said Bakir against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/16/0495, was issued on 5 December 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a lean-to canopy extension onto an existing single storey rear extension, and the erection of a patio at the rear of the premises.
 - The requirements of the notice are STEP 1 Demolish the unauthorised lean-to canopy extension extending beyond the single storey extension, and remove the raised patio area at the rear of the dwellinghouse. STEP 2 Remove all debris and items arising from this demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is allowed on ground (g), and the enforcement notice is varied: by the deletion of 3 months and the substitution of 6 months as the period for compliance. Subject to this variation the enforcement notice is upheld.

The Appeal on Grounds (c) & (d)

2. Although ground (c) has been appealed this ground is that there has not been a breach of planning control. It seems from the arguments put forward that this is simply a repeat of the ground (d) appeal that the patio has been in place for 4 years or more. I shall therefore deal with it solely as a ground (d) appeal.
3. In 2015 planning permission was granted for a rear and side extension that has now been built. The plans showed an existing conservatory to be replaced by a 3m deep rear extension with a 2.5m deep patio beyond, this was bordered by 1m deep planting on both sides. No patio was shown on the existing plans and the proposed patio was level with the ground.
4. The appellant argues that there has long been a patio at the rear of the house; the only alteration is that tiles have been placed on top for decorative purposes. However, there is no evidence for the longevity or the size of the original patio and it is not shown on the plans accompanying the application for planning permission.

5. The Council have provided aerial photographs which are not entirely clear, but do show the current patio, subject to the notice, extending into the garden some way beyond the depth of 2.5m shown on the approved plans. They also show the original conservatory and there does not seem to be a patio beyond it, certainly not one as large as that on site today. Consequently, I cannot agree that on the balance of probability the patio has been in place for 4 years or more.
6. There is no dispute the lean-to canopy extension requires planning permission and so does not fall within the ambit of the ground (d) appeal.

The Appeal on Ground (f)

7. The appellant argues the canopy does not harm the amenity of neighbours or the character and appearance of the area and so should be allowed to stay. I was also asked to view the neighbours' patios which are similar to the appeal patio. However, there is no ground (a) appeal and the planning merits of the development cannot be considered as part of ground (f). The notice clearly identifies the breach and the requirements are consistent with the need to remedy that breach.
8. No reason to retain the patio is given other than that it has been in place for more than 4 years, which I have dealt with above. The appeal on ground (f) fails.

The Appeal on Ground (g)

9. The notice gives 3 months to remove the development. This does not seem unreasonable to me as none of the structures seem as if they would be particularly difficult to remove. On my site visit I noted the canopy has already been removed.
10. However, removal of the patio will render it impossible to access the garden from the back of the house, as the back door is a metre or so above ground level. I presume this is why the patio was constructed in the first place, and is consistent with the neighbours' treatments of their link from house to garden via a stepped patio of some sort. The plans for the extension show it to be at ground level with a flat patio, but that is clearly impossible on this site. The failure of this appeal means the appellant will have to seek planning permission from the Council for an acceptable patio that allows access to the back of the house.
11. I shall extend the compliance period to 6 months to allow them to do so, as it is entirely possible that some if not all of the patio could end up being retained.

Simon Hand

Inspector