
Appeal Decisions

Site visit made on 25 April 2017

by Paul Freer BA (Hons) LLM MRTPI

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

Decision date: 03 May 2017

Appeal Refs: APP/G5750/C/17/3166397 & APP/G5750/C/17/3166398 Land at 54 Browning Road, Manor Park, London E12 6QZ

- 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 appeals are made by Mr Raj t and Mr H M V Serras against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 9 December 2016.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of structures comprising roller shutters and canopies.
 - The requirements of the notice are:
 1. Demolish the structures.
 2. Remove from the site all debris arising from compliance with the above step.
 - The period for compliance with the requirements is three months.
 - The appeals are proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the applications for planning permission deemed to have been made under section 177(5) of the Act as amended do not fall to be considered.
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Summary Decisions: The appeals are dismissed and the enforcement notice is upheld as corrected.

Procedural Matters

1. The breach of planning control alleged in the notice is, without planning permission, the erection of structures comprising roller shutters and canopies. The requirements of the notice at paragraph 5.1 condense that description into simply 'the structures'. The enforcement notice does, however, also include photographs of 'the structures' alleged in the notice to constitute a breach of planning control, in which the roller shutters and canopies are clearly outlined in yellow. I am therefore satisfied that it should be apparent to the appellants the matters to which the notice relates and, indeed, I note that the appellants have not expressed any difficulty in understanding what is required of them.
 2. Nevertheless, it is important that the breach of planning control alleged in the notice and the steps required to comply with it correlate. Therefore, in the interest of clarity, I shall correct the notice to make explicit reference to the roller shutters and canopies at paragraph 5.1. In view of the above, I am satisfied that no injustice would be caused by doing so.
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The appeals on ground (g)

3. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is three months.
4. The essence of the appellants' appeals on this ground is that they are seeking time to submit a planning application for the roller shutters and canopies. The appellants explain that they have sought advice from the Council about the submission of a planning application, as I understand it without any response being received, but have not indicated that a planning application has actually been submitted at this time. Furthermore, the appellants have not indicated the period of time that is sought for the submission and determination of that planning application.
5. I can understand that the appellants would have preferred to have submitted an application with the benefit of advice from the Council. However, I have not been provided with any reasonable explanation as to why a planning application could not have been submitted without that advice. In the absence of any confirmation that a planning application has now been submitted, and indeed with no evidence that such an application is even in preparation, I have no basis on which to assess by how long, if at all, the period of compliance should be extended.
6. Moreover, the appellants had the opportunity to have a deemed planning application for the roller shutters and canopies considered under ground (a) as part of this appeal, but failed to pay the requisite fee within the stipulated time period. The appellants have therefore had every opportunity to submit or make a planning application for the roller shutters and canopies, but have failed to avail themselves of those opportunities. In these circumstances, it would not be appropriate for me to extend the period of compliance at this stage purely to facilitate the submission of a planning application for the roller shutters and canopies.
7. The appellants have provided no technical, logistical or legal reasons why the notice could not be complied with in the time period specified in the notice. Accordingly, the appeals on ground (g) fail.

Conclusion

8. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction.

Formal Decisions

9. It is directed that the notice is corrected by adding the words "comprising roller shutters and canopies" to the requirements at paragraph 5.1. Subject to that correction, the appeals are dismissed and the enforcement notice is upheld.

Paul Freer

INSPECTOR