
Appeal Decision

Site visit made on 6 November 2019

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 26 November 2019

Appeal Ref : APP/C5690/C/19/3220324

Land at 108 Davenport Road, London, SE6 2AS

- 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 TU Investments (five) Ltd against an enforcement notice issued by the Council of the London Borough of Lewisham.
- The notice was issued on 10 December 2018.
- The breach of planning control as alleged in the notice is without planning permission the construction of a single storey rear extension on the land.
- The requirements of the notice are 1. Remove the single storey rear extension from the land, 2. Remove all materials, debris, waste and equipment resulting from compliance with requirement 1. above from the land.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended.

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

Preliminary Matter

1. The Appellant asks that a number of matters including the development's size, visibility and the lack of complaints from neighbours be taken into account. But in the absence of payment of the requisite fee the ground (a) appeal has lapsed and there is no deemed planning application before me to consider. As confirmed in correspondence during the course of the appeal I shall determine the appeal under grounds (f) and (g) only.

Ground (f) appeal

2. This ground of appeal is that the steps required by the notice are excessive.
3. There are two purposes that an enforcement notice may seek to achieve – to remedy the breach of planning control or to remedy the injury to amenity caused by the breach. In this case the notice requires the removal of the development and therefore its purpose is to remedy the breach of planning control. No lesser steps than those set out in the notice could achieve that purpose.
4. The Appellant argues that an appropriate lesser step would be to require the extension to comply with planning permission reference DC17/102463. It is not for me in this appeal to make a finding as to the lawful development of this site

but as an enforcement notice cannot remove lawful rights there is no need for me to vary the notice to give effect to this general principle.

5. For the reasons given above I conclude that the requirements of the notice are not excessive and this ground of appeal does not succeed.

Ground (g) appeal

6. This ground of appeal is that the period for compliance is unreasonably short. The notice provides for a compliance period of four months.
7. The Appellant argues that as the property is occupied on a 6 month assured tenancy it would be reasonable for the notice to provide for a 7 month compliance period.
8. The notice concerns operational development not the use of the property. There is nothing before me to indicate that occupiers would need to move out of the property to enable the works to be undertaken. Moreover, there is no evidence before me providing detail as to the dates of any tenancies.
9. The works required by the notice are not complex and there is no evidence to suggest that they could not reasonably be completed in four months. In the event that compliance with the notice would affect individual rights to a home I have balanced competing public and private interests and consider that four months strikes an appropriate balance and is proportionate so as not to violate individual rights.
10. For the reasons given above this ground of appeal does not succeed.

Formal Decision

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

S. Prail

Inspector