



Appeal Decision

Site visit made on 27 November 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2019

**Appeal Ref: APP/N1920/C/19/3224354 & 3224355
23 Woodfield Rise, Bushey, Hertfordshire WD23 4QR**

- 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 Olufolarin Afolabi (Appeal A) and Mrs Adepeju Afolabi (Appeal B) against an enforcement notice issued by Hertsmere Borough Council.
 - The enforcement notice, numbered 17/0213/UAW, was issued on 25 February 2019.
 - The breach of planning control as alleged in the notice is without planning permission, erection of front boundary wall and electric gates
 - The requirements of the notice are:
 - 4. Remove the unauthorised front boundary wall and unauthorised electric gates.
 - 5. Remove all fittings and fixtures associated with the unauthorised front boundary wall and unauthorised electric gates.
 - 6. Remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its 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] of the Town and Country Planning Act 1990 as amended.
-

Decision

1. Since the notice is found to be a nullity no further action will be taken in connection with this appeal. In the light of this finding the Local Planning Authority should consider reviewing the register kept under section 188 of the Act.

Matters concerning the notice

2. Section 173(10) of the Town and Country Planning Act 1990 ('the Act') provides that an enforcement notice must specify such matters as may be prescribed in regulations. Regulation 4 of The Town and Country Planning (Enforcement Notices and Appeals)(England) Regulations 2002 (ENAR) states that an enforcement notice shall specify the reasons why the local planning authority consider it expedient to issue the notice.
3. The notice merely states: "It appears to the Council that the above breach of planning control has occurred within the last four years." This does not explain why the Council considered it expedient to take enforcement action. The Council provided reasons in its Additional Appeal Statement & Submission Document and Statement of Case, but the omission of reasons from the notice cannot be corrected by the submission of reasons during the appeal.
4. It is a prerequisite to taking enforcement action that it should appear expedient to the Council to do so. Complete omission of reasons from the notice

constitutes a failure to comply with the requirements of the Act and the ENAR. The notice is therefore defective on its face and a nullity.

Conclusion

5. I have concluded that the notice is a nullity and in these circumstances the appeal under the ground set out in section 174(2) to the 1990 Act as amended does not fall to be considered.

M Savage

INSPECTOR