



Appeal Decision

Site visit made on 10 December 2019

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th January 2020

Appeal Ref: APP/V5570/C/19/3224660

26 Hartham Road, Islington, London, N7 9JG.

- 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 Amin against an enforcement notice issued by the Council of the London Borough of Islington.
- The enforcement notice, numbered ENF2018340, was issued on 4 March 2019.
- The breach of planning control as alleged in the notice is the creation of a roof terrace on the outrigger at third floor level.
- The requirements of the notice are to remove the metal balustrades and all associated paraphernalia linked to the use of the roof as a roof terrace.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

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

Procedural matter

1. At the programmed accompanied site visit I was not able to make contact with the appellant or his representative to gain access to the property and go onto the roof terrace to which the notice relates. However, I was able to see the nature of the roof terrace and the enclosing balustrades from the neighbouring roads and the rear garden of the property. I am satisfied that I am sufficiently aware of the environs of the roof terrace and the balustrades to determine the appeal.

Appeal on ground (f)

2. This ground of appeal needs to be considered in the context that the notice seeks to remedy an injury to amenity and as there is no ground (a) appeal or deemed planning application I am not concerned with the planning merits of the development.
3. I noted at the site visit that the balustrade encloses three sides of the flat roofed outrigger stretching out from the rear elevation of the main building to form the roof terrace with access via a window. The appellant says that the flat roof of the top floor flat is a designated emergency fire exit and that the balustrade is needed to help overcome a significant risk of people falling over the edge of the roof. This introduces a factor about planning merits. Notwithstanding this, I noted that there is no permanent means of escape from this roof terrace level such as an external fire escape. The balustrade is

therefore not directly related to any particular means of escape and it appears to me that the degree of risk associated with escaping from the flat roof is similar with or without the balustrade. Moreover, the retention of the balustrade would not be likely to overcome the objections related to the harm to amenity caused by the creation of the roof terrace.

4. I find that the steps required by the notice are not excessive to remedy the harm to amenity and the appellant has not demonstrated that lesser steps would achieve this. The appeal on this ground therefore fails.

Formal Decision

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

David Murray

INSPECTOR