



Appeal Decision

Site visit made on 17 December 2019

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Appeal Ref: APP/Q5300/C/19/3225308

All that land known as 44 St Edmunds Road, London N9 7PT

- 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 Paul Roberts against an enforcement notice issued by the Council of the London Borough of Enfield.
 - The enforcement notice was issued on 20 February 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a single storey extension to the rear of the premises in excess of the parameters set out within Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The requirements of the notice are: Remove the single storey rear extension, remove all resulting materials from the premises or reduce the depth and height of the single storey rear extension in order to comply with the parameters, set out within Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - 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 were not paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under s177(5) of the 1990 Act as amended has lapsed.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matter

2. The appellant made an appeal on ground (a) – that planning permission ought to be granted for the matters alleged in the notice. However, the prescribed fees were not paid within the specified period consequently, ground (a) has lapsed and no application for planning permission is deemed to have been made under s177(5) of the 1990 Act.

Reasons

3. An appeal on ground (f) is a claim that the requirements of the notice exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any injury to amenity resulting from the breach.
4. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first s173(4)(a) is to remedy the breach of planning control which has occurred. The

- second s173(4)(b) is to remedy any injury to amenity which has been caused by the breach.
5. In this case the enforcement notice requires either the removal of the extension or its alteration and as such I find its purposes are to remedy the breach of planning control and, to remedy the injury to amenity that has occurred.
 6. These purposes can only be achieved by either restoring the land to its condition before the breach took place – in other words by demolishing the extension and removing all associated materials as is set out in the requirements of the notice or, reducing the size of the extension to that which would have constituted permitted development under Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
 7. With regard to the first limb of the requirements - the demolition of the extension, no lesser steps would remedy the breach of planning control and in this respect the requirements of the notice are not excessive. The alternative is to reduce the size of the extension to that which would have constituted permitted development, that is an extension which is considered by the Government to be an acceptable size having regard to amenity.
 8. The appellant has suggested a lesser step of requiring the extension to be reduced in height by 0.5m so that the height of the extension would be 3m. This and arguments such as reducing the depth of the extension by 0.3m metres would make no difference to the living conditions of neighbours, that the extension is less harmful to living conditions than that which could be built as permitted development and that the extension has no greater impact than that previously approved, are matters which relate to planning merits.
 9. However, where there is no appeal under ground (a) consequently there is no deemed application for planning permission, as such there can be no arguments about the planning merits of the development under ground (f). The only consideration is whether the requirements exceed what is necessary to achieve the identified purposes.
 10. Since the purposes of the notice are to remedy the breach of planning control and the injury to amenity which has occurred, no lesser steps other than those set out in the notice would achieve those purposes. Therefore, the appeal on ground (f) fails.

Conclusion

11. For the reasons given above, I consider that the appeal should not succeed, and I shall uphold the enforcement notice.

Felicity Thompson

INSPECTOR