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# Appeal Decision

Site visit made on 3 February 2020

**by Roy Curnow MA BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 01 April 2020**

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**Appeal Ref: APP/F5540/C/19/3233232**

**55 Cassiobury Avenue, Feltham, London TW14 9JE**

- 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 Mrs Sadia Qureshi against an enforcement notice issued by the Council of the London Borough of Hounslow ('the notice').
- The enforcement notice, numbered BWR/2017/00196, was issued on 13 June 2019.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a first floor side extension.
- The requirements of the notice are: (1) Demolish the first floor side extension; and (2) Remove all resultant debris from the land.
- The period for compliance with the requirements is 3 months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2) (b), (c), (f) and (g) 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 Decision: The appeal is dismissed, and the enforcement notice is upheld with variation.**

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## Procedural Matters

1. Whilst an officer of the Council did attend the site visit, the appellant did not. Therefore, I was unable to enter the property. In the circumstances, I determined to undertake the visit on an unaccompanied basis, viewing the front of the property from Cassiobury Avenue and its rear from the public vantage points along Ruskin Avenue. I subsequently sought the parties' views on this approach and neither objected. I will proceed on this basis.

## Ground (b)

2. This appeal is made on the ground that that the matters alleged in the notice have not occurred. The burden of proof lies with the appellant to make her case.
3. The first-floor extension has been added to the side of the property. Furthermore, the appellant sets out in her statement that a side extension has been built. This is in the position that is indicated on the plan attached to the notice, which, when read alone or with the notice as a whole, clearly identifies the site and the alleged breach of planning controls.

4. The concern is that the plan attached to the issued notice is incorrect. However, these errors are minor in nature and do not affect the ability of the recipients to identify what has gone wrong and what has to be done to put that wrong right.
5. Additionally, it is unclear what is meant by the reference to a range of dates issued on the notice. Neither of the dates on the notice relate to the date of its service and, from my assessment, those dates that are on the notice are in order. None of these matters confirm that the alleged matters had in fact not occurred at the time when the notice was actually issued.
6. In the light of the above and having taken the precise evidence of the Council into account, including an appeal decision letter<sup>1</sup> relating to the development, I conclude that the matter alleged in the notice has occurred. Therefore, the appeal on ground (b) fails.

### **Ground (c)**

7. This ground of appeal is that those matters (if they occurred) do not constitute a breach of planning control. Again, the burden of proof lies with the appellant.
8. The appellant refers to a planning permission from 1973. This makes reference to a two-storey side extension. However, the evidence presented does not clearly show that this permission remains extant nor what has in fact been constructed on the site conforms to the previously approved scheme. The appellant concedes that the extension that has been built might be what was approved by the 1973 permission, and so there is significant doubt as to the validity of this claim.
9. As the appellant has not shown how the development benefits from permitted development rights or planning permission has been granted for the matters alleged, express planning permission is required and it has not been obtained. The appeal on ground (c) fails.

### **Ground (f)**

10. This ground of appeal is that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury, to amenity which has been caused by any such breach. Here, the purpose of the notice is to remedy the breach of planning control.
11. Whilst meetings between the appellant and Council might have led to some agreement on other proposals that might be acceptable, none of these have been put before me. The appellant considers remedial action could be taken, but there is no alternative scheme advanced. In any event, the requirements cannot be varied to require alteration to the first floor side extension as this would require substantial rewording and modification of the requirements, due to the building work required to alter the unauthorised extension.
12. Given the steps required by the notice, the purpose is to remedy the breach of planning controls, which falls within s173(4)(a). No substantive

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<sup>1</sup> APP/F5540/D/17/3189656

case has been made to show that lesser steps would achieve the purpose behind the notice's requirements.

13. Therefore, I find that the steps that the notice requires to be taken to remedy the breach are not excessive. As such, the appeal under ground (f) fails.

### **Ground (g)**

14. In essence, this ground of appeal is that the period specified for compliance with the requirements of the notice is unreasonable.
15. Finding a builder that would be able to meet the 3-month schedule would be likely to prove difficult. Furthermore, the requirements of the notice will entail fairly involved works. In the light of this, I find that three months would not be sufficient. I agree that the period for compliance with the requirements of the notice, in this regard, should be extended. Having said this, I am not convinced that 12 months is required.
16. The argument that more time to allow for the submission of a planning application to address the Council's concerns is more logically dealt with here. In any event, this action, for which no timeframe is given, does not provide sufficient reason to extend the compliance period. I find similarly with regards to the appellant's reported financial situation, as I have been provided with insufficient evidence to show that this would be an impediment to undertaking the work within the timeframe set out in the notice.
17. Given the nature of the building work required by the notice and the current circumstances, I am of the view that a 6-month period would be reasonable. On this basis, the appeal partially succeeds on ground (g) and I will vary the notice accordingly.

### **Conclusions**

18. I dismiss the appeals on grounds (b), (c) and (f). The appeal on ground (g) partially succeeds and I vary the period for compliance, prior to upholding the enforcement notice.

### **Formal Decision**

19. I direct that the enforcement notice be varied by deleting the following text: *within 3 months from the date that this notice takes effect*, at section 5, and the substitution therefor by the following text: *within 6 months from the date when this notice takes effect*.
20. Subject to the above variation, the enforcement notice is upheld and the appeal is dismissed.

*Roy Curnow*  
INSPECTOR