
Appeal Decision

Site visit made on 26 February 2020

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2020

Appeal Ref: APP/E0345/C/3239633

Land and property at 30 Addison Road, Reading RG1 8EN

- 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 Min Bahadur Tamang against an enforcement notice issued by Reading Borough Council.
 - The enforcement notice was issued on 11 September 2019.
 - The breach of planning control as alleged in the notice is without planning permission the erection on the land of (1) a single storey rear extension shown crossed hatched black and annotated 'B' on Plan 'B' attached hereto and (2) an open ended canopy shown hatched black and annotated 'A' on Plan 'B' attached hereto.
 - The requirements of the notice are:
 - (a) Take down and remove from the land the open ended canopy in the approximate location shown hatched black and annotated 'A' on Plan 'B' attached hereto; and
 - (b) Take down and remove from the land the single storey rear extension in the approximate location shown crossed hatched black and annotated 'B' on Plan 'B' attached hereto; or
 - (c) Alter the said single storey rear extension so that it accords with the conditions and limitations of Class A Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended); and
 - (d) Make good any damage to the existing land and building caused as a result of the works carried out under (a), (b) or (c) above and remove from the land all building and other excess materials associated with the said works.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in sections 174(2) (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 have lapsed
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Decision

1. The enforcement notice is quashed.

The Enforcement Notice

2. I have a duty to ensure that the notice is in order.
3. It is well established by case law that an enforcement notice must clearly set out what the recipient of the notice is required to do in order to comply with its requirements. While it can be appropriate to give the recipient of the notice a choice of how to comply, the minimum requirement must be clear.

4. Requirement (c) of the notice requires alterations to the extension to comply with permitted development rights set out in the GPDO¹. However, it is not clear that an alternative permitted development scheme is realistically achievable in terms of adapting and partly demolishing the existing extension. The requirement therefore lacks the necessary degree of precision to allow the recipient of the notice to know what is required in order to comply.
5. Wide powers to correct a notice are available to me under section 176(1) of the 1990 Act as amended. However, they only apply if I am satisfied that the correction will not cause injustice to the appellant or the Council. In this instance, the parties agree that the deletion of requirement (c) of the notice would cause injustice to the appellant, who would as a result have no option but to demolish the extension in its entirety.
6. The appellant has requested that the requirements be varied to add an alternative requirement that the extension be amended to accord with a planning application that is currently being considered by the Council. However, I have no certainty that the application will be approved and therefore it is not an obvious alternative to the requirements of the notice.
7. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the steps required for compliance. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act as amended, since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances, the appeals on the grounds set out in section 174(2)(f) and (g) of the 1990 Act as amended do not fall to be considered.

N Thomas

INSPECTOR

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)