



Appeal Decision

Site visit made on 8 September 2020

by Roy Curnow MA BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2020

Appeal A Ref: APP/F5540/C/19/3239510

Appeal B Ref: APP/F5540/C/19/3239511

171 Springwell Road, Hounslow TW5 9BN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr Paramjit Ghataore against an enforcement notice issued by the Council of the London Borough of Hounslow ('the notice').
 - Appeal B is made by Mrs Gurdip Kaur Ghataore against an enforcement notice issued by the Council of the London Borough of Hounslow.
 - The enforcement notice, numbered BWR2015/00632, was issued on 26 September 2019.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a second single storey rear extension.
 - The requirements of the notice are (1) Demolish the second single storey rear extension; and (2) Permanently remove all resultant debris from the Land as a result of carrying out the works above.
 - The period for compliance with the requirements is 6 months after the date this notice takes effect.
 - Appeal A is proceeding on the grounds set out in section 174(2)(d) and (a) of the Town and Country Planning Act 1990 as amended. Appeal B is proceeding on the grounds set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeals are allowed and the enforcement notice is quashed.

Ground (d)

2. 171 Springwell Road is a two-storey dwelling that was originally, with 169 Springwell Road, semi-detached. As the result of a first-floor link to 173 Springwell Road, it now appears as a mid-terrace property.
3. At some unreported point, a single-storey lean-to extension was added to its rear. Subsequently, a second ground floor single-storey extension has been added to that original extension. The second extension, which consists of two flank walls supporting a polycarbonate roof and is largely open towards the property's rear garden, is the subject of this appeal.
4. The case to be made under ground (d) is at the time when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. The onus is on the appellants to prove their case on the balance of probability.
5. Section 171B of the 1990 Act sets out that the time limit for taking enforcement action against operational development, as is the case in this

appeal, is four years. Therefore, it is for the appellants to show that the extension was substantially complete before the 26 September 2015 ('the relevant date').

6. The appellants state that a wall was commenced on the boundary with No 173 in October 2014 and, at some undefined date, the neighbour built a wall between the properties. It seems likely that this wall became part of the second extension as the appellants go on to say that they built a wall on the other side with a polycarbonate roof to create the open-fronted veranda for sitting out. This, they say, was completed by April 2015, save for fixing a leaking roof.
7. The Council's Officer's report shows that a complaint regarding an extension was received on 20 October 2015. The site was visited on 2 November 2015, which led to correspondence between the parties. The next record of the extension being assessed on site by Council staff – albeit that they were not able to access the property – was on the 14 June 2019. At this time, it was reported that "the extension remained in place appearing to be unchanged". To my mind, this statement corroborates the appellants' contention that the second extension was designed to be open-fronted, as it still was at the time of my visit.
8. It appears that the Council did not serve the appellants with a Planning Contravention Notice¹ or some similar means of ascertaining the date when the second extension was substantially complete. Notwithstanding this, the Council's case asserts that the second extension was less than four years' old at the time that the notice was issued. How this position was reached is, however, unexplained.
9. I find the appellants' evidence to be precise and unambiguous and it shows that, on the balance of probability, the second extension was substantially completed in April 2015. As this was prior to the relevant date, no enforcement action could be taken in respect of the breach of planning control.

Conclusion

10. For the reasons given above, I conclude that the appeals should succeed on ground (d). The enforcement notice will be quashed.
11. In these circumstances, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act do not fall to be considered.

Roy Curnow

Inspector

¹ Under section of the Town and Country Planning Act 1990 (as amended)