
Appeal Decisions

Site visit made on 23 February 2021

by N Thomas MA MRTPI

An Inspector appointed by the Secretary of State

Decision date: 12 March 2021

Appeal A Ref: APP/Z3825/C/20/3260627

Appeal B Ref: APP/Z3825/C/20/3260628

Land at 42 Rushams Road, Horsham, West Sussex RH12 2NX

- The appeals are 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 Mohammed Bhatti and Appeal B is made by Mrs Zareena Bhatti against an enforcement notice issued by Horsham District Council.
 - The enforcement notice, numbered EN/20/0295, was issued on 3 September 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey rear extension shown edged red on the plan.
 - The requirements of the notice are:
 1. Cease the use of the single storey rear extension for human habitation;
 2. Remove the single storey rear extension from the land;
 3. Remove from the land all materials and debris resulting from taking above steps (1) and (2).
 - The period for compliance with the requirements is 6 months.
 - The appeals are proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeals are dismissed and the enforcement notice is upheld.

Reasons

2. An appeal on ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, as compliance with the notice would result in the single storey extension being removed in its entirety, the purpose of the notice is to remedy the breach of planning control. As there is no ground (a) appeal and therefore no deemed planning application, I am not considering the planning merits of the extension and I cannot grant planning permission for it.
3. The appellants' case is that the requirement to remove the extension in its entirety is excessive. They argue that alternative options could overcome the Council's concerns, for example by reducing the size of the extension, changing external materials, and removing the overhang over the boundary with the neighbouring property. These alternatives are lesser steps that would not remedy the breach of planning control, as the extension would not be removed in its entirety.

4. I am aware that the extension is required due to a health condition and to allow family members to visit, but a ground (f) appeal does not allow for the consideration of the effect of the decision on individuals and their rights, and therefore I cannot have regard to the personal circumstances of the appellants.
5. As the lesser steps suggested by the appellants would not remedy the breach, and there is no obvious alternative to the removal of the extension in its entirety, it follows that the appeals on ground (f) should fail.

Conclusions

6. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

N Thomas

INSPECTOR