



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 4 August 2021

Appeal ref: APP/P4605/C/21/3271746

Land at 454 Stratford Road, Birmingham, B11 4AE

- 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 brought by Mr Mohammed Sarwar Kahn against an enforcement notice issued by Birmingham City Council.
- The notice was issued on 25 February 2021.
- The breach of planning control as alleged in the notice is "Without planning permission, the erection of an unauthorised first floor rear extension in the approximate position marked green on the attached plan".
- The requirement of the notice is: "Demolish the first-floor rear extension in its entirety and remove all the demolished materials from the Land".
- The time period for compliance with the notice is: "6 months after this enforcement notice takes effect".
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The main basis of the appeal is that the appellant requires more time to comply with the requirements of the notice in order to serve a minimum 6-month notice on the existing tenant due to the COVID pandemic, who will then need to find alternative accommodation. Therefore, he requests the period of compliance be extended to 1 year and contends that this period would also allow for the pandemic to subside and for contractors to be able to attend the property in order to carry out the required works. However, the Council point out that since the appeal was submitted, they agreed with the appellant to extend the compliance period for a further 6 months, but the appeal has not been withdrawn.
2. I am mindful that some 4 months have elapsed since the appeal was submitted with enforcement action effectively suspended. In that time, COVID restrictions have been significantly lifted. As the compliance period will begin again from the date of this decision, the appellant will effectively have had some 10 months in which to carry out the required works. I consider this period to be both reasonable and proportionate and provides an appropriate balance between the needs of the tenant to seek out alternative accommodation and the need for the stated harm caused by the unauthorised development to be brought to an end.

3. In these circumstances, there does not appear to be any good reason to extend the compliance period further. The ground (g) appeal fails accordingly.
4. However, should the appellant experience any genuine difficulties, it will be open to him to submit a request to the Council to use their powers under section 173(1)(b) of the 1990 Act to extend the compliance period themselves, should they be satisfied there is justification for doing so.

Formal decision

5. For the reasons given above, the appeal is dismissed and the enforcement notice is upheld without variation.

K McEntee