
Appeal Decision

Site visit made on 7 September 2021

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2021

Appeal Ref: APP/G5750/C/20/3260805
22 Roman Road, East Ham, London E6 3RX

- 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 Arokia Duraiswamy against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 8 September 2020.
 - The breach of planning control as alleged in the notice is without planning permission the erection of an extension to the ground floor rear.
 - The requirements of the notice are:
 1. Demolish the extension to the ground floor rear (as shown edged in yellow on the attached plan).
 2. On completion of step 1, remove all materials and debris from the site.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 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 as amended have lapsed.
-

Decision

1. It is directed that the enforcement notice is:
 - varied by deleting the words "three months" within section 5 (what you are required to do) and its replacement with "five months".
2. Subject to this variation, the appeal is dismissed, and the enforcement notice is upheld.

The appeal on Ground (f)

3. The appeal on this ground 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 which may be constituted by those matters (i.e., the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
4. The enforcement notice requires the demolition of the unauthorised rear extension, and therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.
5. The appellant states that the steps required by the enforcement notice are excessive considering the cost involved, and that the Council could have

negotiated with the appellant to reach a mutually beneficial agreement.

However, the Council state that two planning applications¹ have been refused for the retention of the rear extension, and that no further communication has been received from the appellant to resolve this matter.

6. The appellant also states that a survey should have also been undertaken (by the Council) to review similar developments in the locality, in order to ascertain whether a compromise can be reached, and also that the development could be granted planning permission with a condition attached restricting the use of the building to incidental to the main house. However, given that the ground (a) appeal has lapsed, I cannot assess the planning merits of the case, and I must take the notice at face value. The notice has been issued to remedy the breach of planning control. That would not be achieved by the steps outlined by the appellant, as it would not remedy the breach of planning control.
7. As the notice does no more than seek remedy of the breach, it is not excessive. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.
8. On this basis, the Ground (f) appeal fails.

The appeal on Ground (g)

9. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 3 months to 18 months to source a reputable builder to carry out the demolition works, and to allow the occupants to make alternative arrangements for storage and working. The appellant further states that any works should be suspended until Covid-19 is eradicated, as they consider it is not safe for builders to carryout such works.
10. The time for completing the requirements should be what is reasonably considered necessary to complete the requirements, and since the appeal was lodged, we are now if a different situation with the pandemic, with the easing of social distancing restrictions. I consider that the 18 months requested by the appellant to comply with the notice is disproportionately excessive to complete the requirements.
11. In my view, 5 months would strike a more reasonable and proportionate balance to comply with the notice in the current circumstances with the pandemic. I shall therefore extend the period from 3 to 5 months for compliance with the notice.
12. The appeal succeeds on ground (g), and I shall vary the notice accordingly.

Conclusion

13. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

R Satheesan

INSPECTOR

¹ Council ref: 19/03449/HH and 20/00905/HH