



Appeal Decision

Site Visit made on 12 October 2021

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2021

Appeal Ref: APP/D5120/C/21/3269285

114 Blackfen Road, Sidcup, Kent DA15 8SW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Keeley Aird against an enforcement notice issued by London Borough of Bexley.
- The notice was issued on 8 January 2021.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a rear dormer and roof alterations to include a flat roof and the insertion of an opening in the first floor rear elevation of the garage conversion approved under planning permission 19/01690/FUL, shown outlined in blue on the attached plan.
- The requirements of the notice are to:
 - 1) Remove the rear dormer roof extension and reinstate the roof of the development as approved under planning permission reference 19/01690/FUL.
 - 2) Remove of all resultant materials from the Land.
- The period for compliance with the requirement is: 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(f), (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal succeeds in part and the enforcement notice is upheld with a correction and a variation in the terms set out below in the Formal Decision.

Preliminary Matters

1. There appears to be a typographical error in the second of the requirements by the insertion of an unnecessary "of". In accordance with the powers conferred to me under Section 176 of the Town and Country Planning Act 1990 (the Act) I will correct the requirements to delete "of". This is a minor correction to a requirement that has been clearly understood by the appellant. As such, this will not cause prejudice to the appellant.

The Appeal on Ground (f)

2. An 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 or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements seek to make the development comply with the terms of planning permission reference 19/01690/FUL which has been granted in respect of the land. Clearly, therefore, the purpose of the notice requirements is to remedy the breach of planning control.
3. It would be possible, in these circumstances, to amend the requirements to reflect any other grant of planning permission. However, there has been no alternative grant of planning permission. I understand that there is a current

application under reference 20/03261/FUL, but it is unclear where that is in the process. Consequently, it would not be possible to amend the notice to refer to it.

4. The requirements of the notice include removing all materials resulting from compliance with the notice from the land. This would ensure that waste is removed, in order to restore the land to its condition before the breach took place. For these reasons, this requirement does not exceed what is necessary to remedy the breach of planning control.
5. As a result, I conclude that the requirements of the notice do not exceed what is necessary in order to remedy the breach of planning control. As such, the appeal fails on ground (f).

The Appeal on Ground (g)

6. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed. The appellant suggests that a period of nine months would be required in order to comply with the enforcement notice.
7. I note that there is some uncertainty as to the ability to access construction labour and materials at present. Whilst limited evidence has been provided to justify the period suggested, I accept that this is a problem at the present time. I note also that there is an outstanding planning application for an alternative design of the roof. I have limited information as to the progress of that application, including whether it has been registered or would be considered acceptable by the Council. Nevertheless, it would be reasonable to give some time for the application to progress. Taking account of these matters, I consider that a period of six months would be appropriate in this instance.
8. Whilst I accept that there may be some uncertainty as to how to access funds to carry out the works required, this would not affect my conclusion relating to the period reasonably required to carry out the works.
9. For these reasons, I conclude that the appeal under ground (g) should succeed and I shall vary the period for compliance to six months.

Formal Decision

10. It is directed that the enforcement notice is corrected and varied by:

- The deletion of "of" from the second requirement of the requirements of the notice;
- The deletion of 4 months and the substitution of 6 months as the period for compliance.

11. Subject to the correction and variation, the enforcement notice is upheld.

AJ Steen

INSPECTOR