
Appeal Decisions

Site visit made on 2 November 2021

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2021

Appeal Refs: APP/U5360/C/21/3277493, APP/U5360/C/21/3277494 & APP/U5360/C/21/3277495

11 Balls Pond Road, London, Hackney N1 4AX

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mrs M Da Gama, Mr Prospero Da Gama & Ms Beatrice Da Gama against an enforcement notice issued by the Council of the London Borough of Hackney.
 - The enforcement notice was issued on 27 May 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a part one, part three storey rear extension and a roof extension.
 - The requirements of the notice are:
 - (1) Remove the whole of the part one, part three storey rear extension
 - (2) Remove the roof extension in its entirety
 - (3) Remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) 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.
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Decisions

1. It is directed that the enforcement notice be:
 - corrected by inserting a 'semi-colon' (";") at the end of the requirement 1;
 - corrected by inserting a 'semi-colon' and the word 'and' ("; and") at the end of the requirement 2;
2. Subject to these corrections, the appeals are dismissed, and the enforcement notice is upheld.

Procedural Matters

3. I have a duty to ensure that the notice is in order. The requirements in the enforcement notice are poorly worded in so far as it lacks punctuation at the end of requirements 1 and 2. My understanding of the notice is not affected by these minor errors and nothing within the appellants' submissions indicates to me that it has been misunderstood by them as a result. Therefore, I consider

that these minor corrections are therefore necessary which can be achieved by using my powers under s176(1)(a) of the Act without causing injustice.

The appeals on Ground (f)

4. The appeals on this ground are "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".
5. The enforcement notice requires the demolition of the unauthorised development, and therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.
6. With regards to the roof extension, the appellants state that they would be happy to remove any temporary roof extensions, which confirms the appellants' willingness to comply with this part of the notice. Whilst this is noted, this is not relevant to an appeal on ground (f).
7. The appellants further state that the part one, part two storey rear extension could be modified to match that at the neighbouring property at 13 Balls Pond Road, and the roof height could be lowered together with materials to match the existing. However, given that a 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 appellants, as it would not remedy the breach of planning control and planning permission would still be required.
8. As the notice does no more than seek remedy of the breach, it is not excessive. It is not therefore possible to vary the notice in the ways suggested by the appellants whilst achieving the purpose of the notice. 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.
9. On this basis, the Ground (f) appeals fail.

Conclusions

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

R Satheesan

INSPECTOR