



Appeal Decision

Site visit made on 18 January 2022

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2022

Appeal Ref: APP/G5750/C/20/3261557

Land at 121 Bristol Road, Forest Gate, London E7 8HG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Nazneen Ali against an enforcement notice issued by London Borough of Newham.
 - The notice was issued on 22 September 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of a three storey rear extension, including alterations to the roof.
 - The requirements of the notice are to:
 1. Demolish the three storey rear extension, including alterations to the roof (as shown edged in red on the photograph attached at Appendix 1) and return the property to its form prior to the unauthorised development.
 2. On completion of step 1, remove all materials and debris from the site.
 - The period for compliance with the requirements is five months.
 - The appeal is proceeding on the grounds set out in section 174(2)(d), (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Appeal on ground (d)

2. In relation to a breach of planning control consisting of operational development, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach (s171B (1)). The main issue is whether the three-storey rear extension, including alterations to the roof, were substantially complete on or before the 22 September 2016.
3. The appellant maintains that the unauthorised rear extension and roof alterations were commenced in February 2015 and completed in June 2015. In support of her case the appellant has included a statutory declaration from her builder which states that he commenced the unauthorised development in February 2015 and completed it within 3 months. A note from the builders' merchants' states that they delivered the requisite building materials to the appeal site in February 2015. In addition, standardised letters/statements of truth have been signed by three neighbours stating that the three-storey rear extension was built in April/May 2015. The appellant has also provided copies of two bank statements dated June and July 2015 which show that money was transferred to the builder during those months.
4. However, the Council have drawn to my attention an application for a certificate of lawfulness for a proposed loft conversion with rear dormer,

including two velux windows made in April 2016¹, and a planning application for a proposed part double storey rear extension, submitted to the Council in April 2016². Included in both applications to the Council were plans to show the existing elevations of the appeal property. Those existing plans showed the appeal property without any alterations having been made to its roof, and only a single storey extension to the rear. Those applications and plans appear to contradict the appellant's assertion that the unauthorised works were completed in June 2015.

5. In addition, satellite images submitted by the Council show that the unauthorised works were not visible in a 2017 image, but clearly visible in the images taken in 2019 and 2020. Furthermore, a street view image in 2018 shows works being undertaken to the roof of the property with scaffolding present.
6. The bank statements submitted do not provide any evidence that the unauthorised works were undertaken in 2015, only that a payment was made to the appellant's builder. Similarly, the note from the builder's merchant is not evidence of the unauthorised development taking place. I have taken into consideration the signed statements of truth from the neighbours. However, these are not witnessed or in the form of a statutory declaration (SD). I therefore attribute them little weight.
7. I appreciate that the builder has provided a signed and witnessed SD which states that he started the structural works in February 2015 and completed them within three months. However, the evidence provided by the Council in the form of satellite and street view images, taken together with the appellant's own applications for planning permission and a proposed certificate of lawfulness as set out above, cast significant doubt on the builder's SD.
8. Consequently, the circumstances of this case are such that I am not satisfied that the appellant's evidence is sufficiently precise or unambiguous to conclude on the balance of probability that the unauthorised development is immune from enforcement action.
9. I conclude that the three-storey rear extension, including alterations to the roof are not lawful due to the passage of time. The appeal on ground (d) fails.

Appeal on ground (f)

10. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
11. Section 173 of the Town and Country Planning Act 1990 (as amended) indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach. In this case the purpose of the notice is to remedy the breach of planning control.
12. It is the appellant's view that the requirement to remove the extension and roof alterations is excessive, as elements of the works could be reinstated without planning permission under permitted development rights. However,

¹ LPA Ref: 16/00880/CLP, dated April 2016

² LPA Ref: 16/00881/HH, dated 5 April 2016

the appellant has not detailed which elements of the unauthorised works could be reinstated as permitted development or has she provided any evidence that would support that assertion. In addition, no lesser steps have been put forward by the appellant.

13. Moreover, there are no lesser steps that would achieve the statutory purpose behind the notice and the appeal on ground (f) fails.

Conclusion

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

Elizabeth Pleasant

INSPECTOR