



Appeal Decision

Site visit made on 28 February 2022

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2022

Appeal Ref: APP/B0230/C/21/3287904

154 Montrose Avenue, Luton, Bedfordshire LU3 1HT

- 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 Mr Mohammed Azad against an enforcement notice issued by Luton Council.
 - The enforcement notice was issued on 20 October 2021.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a roof extension and third storey rear extension to the dwelling house on the Land, in the approximate position shown shaded orange of the diagrams contained on the attached plan dated 27/10/2020 and entitled 'proposed rear extension' and 'proposed side elevation' ('the unauthorised development')."
 - The requirements of the notice are:
 - i) Demolish the Unauthorised Development and remove it from the land.
 - ii) Construct a roof upon the remainder of the dwelling house on the Land in compliance with the approved plan reference DC04 relating to planning permission reference 20/00035/FULHH dated 4th March 2020.
 - iii) Remove all associated building materials and rubble and waste materials arising from compliance with steps (i) and (ii) above from the Land.
 - The period for compliance with the requirements is 6 calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2) (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.
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Decision

1. It is directed that the enforcement notice is varied by:

- varied by deleting the words "6 calendar months" within section 6 (Time for Compliance) and its replacement with "12 months" as the period for compliance.

2. Subject to the variation, the enforcement notice is upheld.

The appeal on Ground (g)

3. 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 6 to 12 months in order to find safe alternative accommodation for his disabled child whilst all necessary works are carried out, particularly in light of the cost and shortage of accommodation that is available

nearby as well as the impact that Covid-19 has had on the availability of materials and builders.

4. I acknowledge that the appellant's family may need to vacate the premises in order to carry out the necessary remedial works. The appellant might find it difficult under current housing market conditions to find suitable accommodation for their family and disabled child. I therefore consider that in the particular circumstances of this case, a 12 month compliance period is proportionate and reasonable. I shall therefore vary the period for compliance to 12 months prior to upholding the notice.
5. To this extent, the ground (g) appeal succeeds, and I will vary the notice accordingly.

Conclusion

6. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

R Satheesan

INSPECTOR