



Appeal Decision

Site visit made on 15 February 2022

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 07 March 2022

Appeal Ref: APP/U5930/C/21/3273601

1 Lyttelton Road, Leyton, London E10 5NQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr D Andrew against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The enforcement notice was issued on 11 March 2021.
 - The breach of planning control as alleged in the notice is without planning permission:
 1. Erection of a porch to the front of the property.
 2. Ground floor infill extension in rear courtyard (highlighted in yellow dashed line in Appendix A).
 3. First floor rear extension to "stable block" (highlighted in the blue dashed line in Appendix A).
 4. Three raised rooflights and raised roof lantern (highlighted in the red dashed line in Appendix A).
 - The requirements of the notice are:
 1. Demolish and remove the porch erected to the front of the property including all fixtures and fittings.
 2. Demolish and remove the ground floor infill extension in rear courtyard (highlighted in yellow dashed line in Appendix A).
 3. Demolish and remove the first-floor rear extension to "stable block" (highlighted in the blue dashed line in Appendix A).
 4. Demolish and remove the three raised rooflights and raised roof lantern (highlighted in the red dashed line in Appendix A).
 5. Return the land to its previous condition prior to the unauthorised works (as shown in Appendix B).
 6. Remove all resulting materials, rubble and general detritus from the Land following compliance with the steps 1- 5 above.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d) and (g) of the Town and Country Planning Act 1990 as amended.
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The Enforcement Notice

1. The Council acknowledges that there has been an oversight in 'Appendix A – a satellite image showing the alleged unauthorised extensions and alterations added to the property', which was attached to the enforcement notice. It is now accepted that the dashed blue line, which was intended to highlight the first floor rear extension to the stable block, is incorrect. The Council says that the appellant has provided clear and unambiguous evidence to demonstrate that the first floor rear extension, as outlined in blue, has been in existence for more than four years and would be immune from enforcement action. The Council continues that the appellant's 'drawing No.07a' accurately reflects the extensions and roof lights that have been added to the property.

2. Consequently, I am asked to amend the enforcement notice by deleting requirement 3. This would have the effect of granting planning permission for the first floor rear extension by virtue of s173(11) of the 1990 Act.
3. Despite the Council's position, it is clear from the evidence that only part of the first floor rear extension has been substantially completed for more than four years. The previous structure was L-shaped, as shown by the appellant's Google Earth images and photographs, and the Council's 'Appendix B – land prior to the unauthorised development'. The extension has since been enlarged to form a rectangular structure at first floor level. This is acknowledged by both the Council and the Appellant, and my attention is drawn to drawing No 07a that clearly shows the increase in floor area. Ultimately, the enforcement notice is incorrect in respect of the dashed blue line.
4. There are further inconsistencies. The allegation also refers to a ground floor infill extension in the rear courtyard, highlighted in a yellow dashed line in Appendix A. The yellow dashed line outlines two structures but the wording of the allegation and corresponding requirement indicates there is only one infill extension. This would also require a correction. In addition, the Council says that the appellant's drawing No 07a is accurate yet this differs from the Council's Appendix A in terms of the extent of the ground floor infill extension with lantern roof. Finally, the allegation targets three raised rooflights and a raised roof lantern, whereas the Appendix A highlights two raised rooflights and two roof lanterns. Drawing No 07a shows numerous other rooflights. The appellant says there are two lanterns and six rooflights in the ground floor.
5. Overall, there are significant inconsistencies and ambiguities within the enforcement notice. I have a duty to rectify these matters which would require using my powers of correction under Section 176(1) of the 1990 Act. It is particularly important that the allegation is correct as this forms the basis for the deemed planning application. The extent and nature of the inaccuracies are such that I would need to correct the wording of the allegation, and make consequential changes to the requirements and to Appendix A. I am not satisfied that I could make the changes without injustice as I would be expanding the matters enforced against. Also, I could not amend the Council's Appendix A with sufficient precision.

Conclusion

6. For the reasons given above I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control and the steps required for compliance. It is not open to me to correct the errors in accordance with my powers under section 176(1)(a) of the 1990 Act since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances the appeal under grounds (a), (d) and (g) as set out in section 174(2) of the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not fall to be considered.

Formal Decision

7. The enforcement notice is quashed.

Debbie Moore Inspector