



Appeal Decisions

Site visit made on 15 March 2022

by **M Madge DIPTP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 April 2022

Appeal A Ref: APP/T5150/C/20/3263205 and

Appeal B Ref: APP/T5150/C/20/3263206

58 Bowrons Avenue, WEMBLEY, HA0 4QP

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mr Rajendrakumar Amarchande and Appeal B is made by Mrs Darshana Rajendrakumar against an enforcement notice issued by Council for the London Borough of Brent.
 - The notice, numbered E/20/0265, was issued on 3 November 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of single storey canopy extensions to the rear of the premises.
 - The requirements of the notice are:
 - STEP 1 Remove the canopy extensions to the rear of the premises.
 - STEP 2 Remove all items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 3 months.
 - The appeals are proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeals are dismissed, and the enforcement notice is upheld.

The appeals on ground (d)

2. For the appeals to succeed on this ground, the appellants need to show that the single storey canopy extensions were erected 4 or more years before the notice was served. The material date is 3 November 2016. The onus of proof is on the appellant and the relevant test is the balance of probability.
3. There is no dispute that the host dwelling has been the subject of 2 planning permissions, one for a single storey rear extension and one for a single storey outbuilding. The building control documents confirm that the single storey rear extension was commenced before July 2003. However, the building control documents only relate to the single storey rear extension, they make no reference to the single storey canopy extensions specifically. The building control documents do not therefore show precisely when the single storey canopy extensions were erected.
4. The plans relating to the planning application ref: 17/4684, for existing single storey outbuilding, do show that an 'L' shaped rear canopy wrapped around 2 sides of the previously approved single storey rear extension. While the plans are not specifically dated, the title block contains the annotation 'KM 01/'18', which could mean that the plans were drawn by 'KM' in January 2018. This evidence does not however show when the single storey canopy extensions were erected, only that they existed at the time the plan was drawn. If the plan was drawn in January 2018, that was a considerable length of time after the

material date. The plan does not therefore provide specific details of when the single storey canopy extensions were erected, nor does it show that the single storey canopy extensions existed at the material date.

5. The courts have held that the appellants' own evidence does not need to be corroborated by independent evidence, it must however be sufficiently precise and unambiguous to meet the balance of probability test. The appellant claims that the single storey canopy extensions were erected shortly after the single storey rear extension was completed, and certainly by 2009. Given that the single storey rear extension was commenced in July 2003, the appellant's own evidence claims that the single storey canopy extensions were erected at some point during a period of over 5 years. The appellant's evidence therefore lacks precision and is ambiguous.
6. In the absence of evidence to show precisely when the single storey canopy extensions were erected, the appellant has failed to provide sufficiently precise and unambiguous evidence to demonstrate that, on the balance of probability, the single storey canopy extensions were erected on or before the material date.

Conclusion

7. For the reason given above, the appeals on ground (d) fail and I shall uphold the enforcement notice.

M Madge

INSPECTOR