



Appeal Decision

Site visit made on 5 May 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 13 June 2022

Appeal Ref: APP/N5660/C/21/3277359

Flat 3, 95 Clapham Common South Side, London SW4 9DN

- 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 Haroun Mahdavi against an enforcement notice issued by the Council of the London Borough of Lambeth.
 - The enforcement notice is dated 19 May 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised insertion of grey aluminium framed bifold doors to the rear first floor elevation of the premises leading onto a rear roof terrace enclosed by unauthorised metal balustrades ('the unauthorised metal bi-fold doors and balustrade').
 - The requirements of the notice are: a) Remove the unauthorised metal bi-fold doors and balustrade and all associated fixtures and fittings - and reinstate the rear elevation (including the gauged red brick arch) and roof as existed prior to the breach of planning control; and b) Remove all associated waste and debris resulting from compliance with above steps, from the premises.
 - The period for compliance with the requirements is six 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.
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Decision

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

Preliminary Matters

2. The appeal has been brought on ground (f) alone, which is a ground of mitigation. Nonetheless, the bulk of the appellant's submissions discuss the planning merits of the development, for example, its effect on the character of the Clapham Conservation Area. However, these matters could only be considered under a ground (a) appeal. Since no fee has been paid, no deemed planning application has been made, and so it is not open to me to consider the planning merits of the case within the scope of this appeal.

The appeal on ground (f)

3. The appeal on ground (f) is that the steps required to comply with the requirements of the notice are excessive.
4. The enforcement notice attacks two separate elements, the grey aluminium framed bi-fold doors in the rear elevation at the appeal site, and the metal balustrade enclosing the rear roof terrace. The metal balustrade is currently finished in chrome. The appellant proposes the painting of the balustrade in black to address the Council's objection.

5. The Council confirm that, in principle, they would support the changing of the chrome balustrade to a black paint finish. However, they voice concern that black paint might chip or flake off the smooth chrome surface, making it look unsatisfactory over time. To ensure an acceptable visual effect, they seek the comfort of a methodology for the painting work, and a plan for its ongoing maintenance.
6. Although the painting of the balustrade could be regarded as a lesser step that would address the Council's objection, I consider that it is important to agree the detail of this work in order to ensure a satisfactory visual outcome. I note the appellant's willingness to submit a further planning application for this change, which seems to me to be a positive way to resolve this matter.
7. With regard to the bifold doors, the appellant firstly suggests that these could be reduced from four panels to three. However, the Council argue that the uncharacteristically large opening in the rear of the building, which forms the basis of their objection, would remain.
8. Alternatively, the appellant suggests that the bi-fold doors could be modified to a pair of French doors separated by a brick pier, which would reduce the wide appearance of the development. However, such a scheme would be materially different to the existing, and so cannot reasonably be regarded as part of the scheme that constitutes the breach of planning control.
9. Therefore, for the purposes of this appeal, these proposals could not be regarded as lesser steps that would achieve the aim of the notice, which is to return the site to its condition prior to the breach. Nonetheless, the appellant is also free to submit an application for the changes he proposes to the rear opening, should he wish to pursue those alternatives.
10. The appeal on ground (f) therefore fails.

Conclusion

11. For the reasons above, the appeal is dismissed, and the enforcement notice is upheld.

Elaine Gray

INSPECTOR