



Appeal Decision

Site visit made on 22 March 2022

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th June 2022

Appeal Ref: APP/T5150/C/21/3275912

Land rear of Erin House and the junction of Ealing Road and Riverside Gardens, Wembley HA0 1JF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Walid Nassarallah against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice, numbered E/20/0830, was issued on 29 April 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a single-storey building and shipping containers to the premises and the material change of use of the land to a business/storage/warehouse use.
 - The requirements of the notice are:
 - STEP 1 Cease the use of the premises for business/storage/warehouse use and remove all shipping containers from the premises.
 - STEP 2 Demolish the single-storey building from the premises.
 - STEP 3 Remove all items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises
 - STEP 4 Reinstate all trees and landscaping so that the condition of the premises is restored to the situation before the unauthorised development took place as shown on the google streetview photos attached to this notice.
 - The period for compliance with the requirements is 3 months after the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Summary Decision: The appeal is dismissed.

Ground (f)

1. For the appeal to succeed on this ground, I must be satisfied that the steps required to comply with the notice exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by the breach. Having regard to the requirements of the notice, its purpose must be to remedy the breach of planning control that has occurred.
2. In his appeal submissions the appellant refers to the application for planning permission (reference 21/0233) submitted for the erection of a storage building on the land. The appellant as responded to each of the reasons for refusal of that application in an attempt to address the Council's objections to the development in that case. It suggests, amongst other matters, that the appellant is willing to alter the scheme, and that a flood risk assessment and landscaping scheme will be submitted. It also provides a further explanation of the scheme proposed.

3. Whilst I note the appellant's willingness to submit further information and alter the scheme of development subject of that planning application, the Council's refusal of it is not a matter before me. This appeal can only be determined with regard to the development subject of the enforcement notice. They are two separate matters.
4. It may well be the case that the alterations to the 21/0233 scheme suggested by the appellant would also provide an alternative to the scheme of development subject of the enforcement notice. However, the appeal has been made on ground (f) only. As such, I am not able to consider the planning merits of the scheme subject of the enforcement notice; including whether or not alterations to it would make it appropriate. I am only able to do this under a ground (a) appeal, which has not been made in this case.
5. As noted above, my determination of this appeal is confined to whether or not the requirements of the notice exceed what is necessary to remedy the breach of planning control alleged. This allows me to consider whether alternative steps to those set out in schedule 4 of the notice might achieve this purpose. I have, therefore, had regard to the appellant's submissions and have considered whether these contain alternative steps that would achieve the purpose of remedying the breach in this case.
6. Whilst I note the details submitted are limited, it is likely that the alternatives would result in some form of development on the land. For this reason, I am unable to conclude that the appellant's suggestions would be an appropriate alternative to the steps set out in schedule 4 of the notice that would achieve the purpose of remedying the breach of planning control that has occurred.
7. I have been given no other reason to conclude that the steps required in the notice are not reasonable and proportionate. Furthermore, having regard to both the nature of the breach and requirements of the notice, no other steps that would achieve the purpose of remedying the breach of planning control in this case are obvious to me.
8. For the reasons given above, and having regard to all other matters drawn to my attention, I can only conclude that the steps required in the notice do not exceed what is necessary to remedy the breach of planning control in this case. For these reasons, the appeal under ground (f) should fail.

Conclusion

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

Formal Decision

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

J Moss

INSPECTOR