



Appeal Decisions

Site visit made on 23 March 2022

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14TH JULY 2022

Appeal A Ref: APP/H5960/C/21/3267315

Appeal B Ref: APP/H5960/C/21/3267316

Land at 9 Beemans Row, Garratt Lane, London SW18 4SR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Mr Dylan Butler (Appeal A) and Mrs Erika Butler (Appeal B) against an enforcement notice issued by the Council of the London Borough of Wandsworth.
 - The notice was issued on 14 December 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission and within the last four years, the unauthorised erection of timber trellis affixed to the existing brick wall in the rear garden of the property.
 - The requirements of the notice are to:
 1. remove the unauthorised timber trellis affixed to the existing brick wall; and
 2. Remove from the property all debris arising from compliance with step one above.
 - The period for compliance with the requirements is three months after the date on which the notice takes effect.
 - The appeals are 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 Decisions: Both appeals are dismissed and the enforcement notice is upheld with a correction as set out in the Formal Decision below.

Preliminary Matters

1. The development subject of the enforcement notice is a section of trellis fencing along part of the boundary to the rear of 9 Beemans Row. This forms part of a longer section of trellis fencing that extends from the appeal site, along the rear boundary of 10 and 11 Beemans Row. This is the subject of separate appeals¹ made by other parties and is also the subject of separate appeals decisions.
2. In the evidence submitted in support of their appeals, the appellants provide a detailed account of the background to the case and the reasons for erecting the trellis fencing. They also respond to the reasons for the issue of the notice. Interested parties who support the appellants' appeals have also made similar representations. Whilst all representations are noted, I am not able to consider much of this evidence as these are matters that are wholly relevant to a ground (a) appeal, which has not been made in this case. Notwithstanding this, such matters have been considered in the appeal decision that relates to the fencing along the rear of Nos 9 to 11².

¹ Appeals reference APP/H5960/C/21/3267271, APP/H5960/W/21/3267249 and APP/H5960/C/21/3267455

² Appeal reference APP/H5960/W/21/3267249, which is linked to appeal reference APP/H5960/C/21/3267271.

3. The site visit was undertaken in the company of representatives of the Council and appellants. The development was viewed from the garden and from rooms in the rear of the appeals site. It was also viewed from outside the site, including from the adjoining external communal area serving 19 to 21 St Andrews Court.

The Notice

4. Part 2 of the notice specifies the land to which the notice relates as 9 Beemans Row. It states that this is shown edged red **and** hatched black on the plan attached to the notice. These two areas are not consistent. The black hatched area correctly identifies No 9, whereas the edged red area shows a wider site.
5. So that the description of the land in part 2 is consistent with the corresponding area identified on the plan attached to the notice, I will correct the notice to remove reference to the area edged red. In doing so, I am satisfied that no injustice would be caused to any party, not least because the notice clearly relates to No 9 only, and the appeals have been made by none other than the occupiers of No 9.

Ground (f)

6. Having regard to the requirements of the notice, its purpose must be to remedy the breach of planning control that has occurred. Indeed, the requirements are to remove the trellis fencing in its entirety. As such, for the ground (f) appeals to succeed, I must be satisfied that the steps required to comply with the notice exceed what is necessary to remedy the breach of planning control. My consideration of the ground (f) appeals is, therefore, narrow and confined to this matter alone.
7. A number of alternatives have been suggested, including a reduction in the height of the trellis, the encouragement of planting to grow on the trellis, and the painting of the enclosure. These alternatives would result in the retention of part or all of the development that is the subject of the notice. They are not, therefore, alternatives that would achieve the aim of remedying the breach of planning control in this case.
8. I am unable to consider whether the alternatives suggested would be appropriate as to do so would necessitate a consideration of the planning merits of these alternatives. I am not able to do this within the confines of these appeals as they have been made only under ground (f) and not under ground (a).
9. I note the suggestion for additional tree planting. If I were to add a requirement for tree planting, in addition to the requirement to remove the trellis fencing, this would make the notice more onerous and would exceed what is necessary to remedy the breach of planning control in this case. Furthermore, it is for the recipients of the notice to comply with its requirements. I cannot vary the notice to require other parties to carry out works, or to require works outside of the appeals site.
10. Having regard to both the nature of the breach of planning control in this case and the requirements of the notice, no other steps that would achieve the purpose of remedying the breach are obvious to me. On this basis I can only

conclude that the steps required in the notice are necessary and proportionate. For these reasons, the appeals under ground (f) should fail.

Conclusion

11. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction.

Formal Decision

12. It is directed that the enforcement notice is corrected by the deletion of the words 'edged in red and' from part 2. Subject to the correction, the enforcement notice is upheld.

J Moss

INSPECTOR