



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 11 August 2022

Appeal ref: APP/P4605/C/22/3293788

Land at 109 Witton Lodge Road, Birmingham, B23 5JD.

- 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 brought by Mr Tanveer Ahmed against an enforcement notice issued by Birmingham City Council.
- The notice was issued on 20 January 2022.
- The breach of planning control as alleged in the notice is "Without planning permission, the erection of a single storey canopy on the front elevation of the Land, in the approximate position marked in green on the attached plan".
- The requirements of the notice are: "1. Remove this single storey canopy from the front elevation. 2. Removed all demolished materials from the site".
- The time period for compliance with the requirements of the notice is "2 months after this enforcement notice takes effect".
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The basis of the appellant's appeal is that it will be difficult for him to pay for the cost of the removal of the unauthorised canopy due his current financial position and the effect it will have on his business and mental health. Therefore, he requests more time to comply with the requirements of the notice, but he does not give an alternative time period. I note the appellant's reasons for wanting to extend the period for compliance, but I also note that more than 5 months have elapsed since the appeal was submitted with enforcement action effectively suspended. As the compliance period will begin again from the date of this decision, the appellant will effectively have had almost 8 months for his financial situation to improve and to arrange for the canopy to be removed. I consider this period to be reasonable and proportionate and provides a fair compromise between the needs of the appellant's business and the need for the stated harm caused by the unauthorised development to be brought to an end as soon as possible. In these circumstances, I am not satisfied there is good reason to extend the compliance period further. The ground (g) appeal fails accordingly.
2. However, while I am dismissing the appeal, should the appellant experience any genuine difficulties in meeting the compliance deadline, it will be open to him to

submit a further request to the Council to use their powers under section 173(1)(b) of the 1990 Act to extend the compliance period themselves, should they be satisfied there is justification for doing so.

Formal decision

3. For the reasons given above, the appeal is dismissed and the enforcement notice is upheld without variation.

K McEntee