



Appeal Decision

Site visit made on 6 September 2022

by M Madge DIPTP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2022

Appeal Ref: APP/N5090/C/21/3281185

104 Engel Park, LONDON NW7 2HP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Mogdeh Zarraby against an enforcement notice issued by the Council for the London Borough of Barnet.
 - The notice, numbered ENF/0651/21, was issued on 8 July 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a metal-framed plastic extension to the rear of the property, shown edged in red on attached Photo 01.
 - The requirements of the notice are:
 - 1 Demolish the metal-framed plastic extension.
 - 2 Permanently remove all constituent materials resulting from the works in 1. above from the property.
 - The period for compliance with the requirements is 3 Months.
 - The appeal is proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.
-

Decision

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

Reasons

2. An appeal on ground (d) is that, at the date the notice was issued, no enforcement action could be taken. The notice alleges operational development has occurred and the relevant period for immunity to be achieved is 4 years. The appellant needs to show, on the balance of probability, that the metal-framed plastic extension was erected on or before 8 July 2017, the material date.
3. The metal-framed plastic extension is attached to the rear elevation of a previous single storey extension. The metal-framed plastic extension is made up of a glazed roof on metal supports fastened to pre-existing brick side walls, glazed doors form the main elevation, and plastic sheeting is provided above the pre-existing brick side walls. The metal-framed plastic extension would not therefore have been substantially completed until such time as all these elements were in place.
4. A '*Palram FERIA 3 Veranda Patio Cover*' ('the cover') is shown to have been ordered on 22 June 2017. The order document provides no description as to whether the cover includes glazed doors or plastic sheeting. In the absence of any evidence to show that the cover included the glazed doors and plastic sheeting, it is less than likely that the cover consisted of anything more than the glazed roof.

5. While it is claimed the cover was delivered on 26 June 2017, there is nothing to verify this. The appellant further claims a builder took 2 days to install the metal-framed plastic extension. The document signed by Scott McIlery, dated 29 June 2017, is a quote for '*installation of a conservatory and laminate flooring*'. There is nothing to show that the metal-framed plastic extension is the conservatory referred to.
6. The 2 statutory declarations provide no more detail than the appellant conducted lessons in a '*new conservatory*' or a '*new teaching area*' from July 2017. These declarations do not show that the '*new conservatory*' and the '*new teaching area*' are the metal-framed plastic extension. Furthermore, they do not provide a date in July 2017 when the areas referred to were brought into use.
7. Aerial photographs show that on 28 April 2017 the metal-framed plastic extension did not exist and that on 7 May 2018 a roof had been erected in the area occupied by the metal-framed plastic extension. It is not however clear, in that aerial image, whether the glazed doors and plastic sheeting had also been erected.
8. The Council's evidence includes copies of photographs taken at a birthday party. These photographs provide little detail of the metal-framed plastic extension itself. A pre-existing brick side wall with plastic sheeting above is visible in all the photographs. The mobile phone screen shot¹ also shows a metal support for the cover attached to the pre-existing brick side wall. The photo contained in Appendix 4, while showing the opposite front corner of the structure, shows that the frame of the glazed doors is, if not attached to, parallel with the cover's metal support. Therefore, it would be reasonable to expect to be able to see the frame for the glazed doors in the mobile phone screen shot taken at the birthday party on 12 July 2017, if it existed at that time. There is however nothing shown connected or adjacent to the sides of the metal support in the mobile phone screen shot taken at the birthday party on 12 July 2017.
9. No evidence is provided relating to the purchase or installation of the glazed doors or plastic sheeting. At most the evidence shows that the cover and plastic sheeting were in place by 12 July 2017. There is nothing to show when the glazed doors were installed. Insufficient evidence has therefore been provided to show the date by which the metal-framed plastic extension was substantially completed.
10. For these reasons, I find the appellant's evidence to be imprecise and ambiguous. The appellant has not shown, on the balance of probability, that the metal-framed plastic extension was substantially completed by the material date. The appeal on ground (d) fails.

Conclusion

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

M Madge

INSPECTOR

¹ Appendix 2 of the Council's Statement of Case