
Appeal Decision

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Appeal Ref: APP/L5810/C/22/3301545

59 Gladstone Avenue, Twickenham TW2 7PS (title number MX57497)

- 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 Miss Tina Parish against an enforcement notice issued by the Council of the London Borough of Richmond-upon-Thames.
 - The enforcement notice, numbered 21/0432/EN/UBW, was issued on 30 May 2022.
 - The breach of planning control as alleged in the notice is without planning permission and within the past 4 years the partial demolition of the front boundary wall of the land.
 - The requirement of the notice is to:
 - (a) Rebuild the demolished section of the front boundary wall to match in facsimile to that which existed prior to the breach of planning control as shown in the photograph attached to the notice at Appendix 2.
 - The period for compliance with the requirement is not provided in the notice.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) (e) (f) of the Town and Country Planning Act 1990 as amended (the Act).
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Decision

1. Since the notice is found to be a nullity no further action will be taken in connection with this appeal. In the light of this finding the Council should consider reviewing the register kept under section 188 of the Act.

Procedural Matter

2. It was not necessary for me to conduct a site visit to determine this appeal.

Reasons

3. A notice is null if it is 'defective on its face'¹, normally by missing some vital element that a notice 'shall' include under section 173 of the Act.
4. Section 173(9) of the Act requires that a notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased. The notice in the appeal before me does not do that, and accordingly is a nullity.

Conclusion

5. I have concluded that the notice is a nullity and in these circumstances the appeal under the various grounds set out in section 174(2) to the 1990 Act as amended do not fall to be considered.

Andrew Walker

INSPECTOR

¹ R v Wicks [1996] JPL 743; [1997] JPL 1049 (HoL)