



Appeal Decision

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 January 2023

Appeal Ref: APP/U5930/C/21/3287307

4 Downsell Road, Stratford, London E15 2BU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Guosheng Huang against an enforcement notice issued by Waltham Forest London Borough Council.
 - The notice was issued on 19 October 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission,
 1. The development of a single storey side infill extension.
 2. The erection of a Perspex wooden canopy at the rear.
 - The requirements of the notice are to: i. Demolish and remove the single storey side infill extension in its entirety (as shown in Appendix A). ii. Demolish and remove the Perspex canopy extension at the rear (as shown in Appendix B). iii. Make good any damage caused to the side wall of the outrigger as a result of the above requirement, using materials of a similar appearance to those used in the exterior of the existing house. iv. Remove from the land all resultant debris as a result of the above requirements i), ii), & iii).
 - The period for compliance with the requirements is: 6 (six) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended (the Act). Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decision

1. It is directed that the enforcement notice is corrected by:

Deleting "1. The development of a single storey side infill extension" from the allegation; and deleting the requirements of the notice under section 5 "What you are required to do" and substituting them with "i. Demolish and remove the Perspex canopy extension at the rear (as shown in Appendix B). ii. Remove from the land all resultant debris."

2. Subject to these corrections, the appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (d)

3. In an appeal on ground (d), the onus is on the appellant to demonstrate, on the balance of probabilities, that at the time the notice was issued, it was too late to take enforcement action in respect of the alleged breach of planning control.
4. Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations, no enforcement action may be taken after the end of the period of 4 years beginning with the date on which the operations were substantially

completed (s171B(1) of the Act). The notice was issued on 19 October 2021 for operational development, as defined by s55 of the Act, in the form of a single storey side infill extension and a Perspex wooden canopy to the rear of the property.

5. The appellant's appeal on ground (d) is that the single storey side infill extension was substantially complete more than 4 years ago and therefore immune from enforcement action. The council, having reviewed the appellant's comprehensive evidence, accepts that the single storey infill extension has been in place 'in some form or another' since early 2000 and thus would be immune from enforcement action under Section 171(b) of the Act. From the evidence before me I have no reason to disagree with this stance.
6. Since the notice was issued, the appellant has demolished the Perspex structure from the rear of the property. The council, in its appeal statement¹, concurs with the appellant's evidence² which shows that the structure has been removed and I have no reason to dispute this evidence. Nevertheless, although the structure has been removed, there is no evidence to show that it would have been immune from enforcement action.
7. As there is partial success on the ground (d) appeal, the notice shall be corrected to remove the reference to the side infill extension.

SA Hanson

INSPECTOR

¹ Dated 7 January 2022

² Paragraphs 4.1 and 4.2