



Appeal Decision

Site visit made on 28 March 2023

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th April 2023

Appeal Ref: APP/X5990/C/22/3313007

The buildings and associated land at 1 Berners Mews, London W1T 3AJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Pippa Taylor on behalf of Centrica Combined Investment Fund Ltd c/o LaSalle Investment Management against an enforcement notice issued by City of Westminster Council.
 - The notice, numbered 19/71924/K, was issued on 10 November 2022.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission and within the last 4 years; the installation of two unauthorised vent pipes and metal framework (affixed to the front elevation of the property) on the public highway to the front of 1 Berners Mews, W1T 3AJ shown in photograph A attached.
 - The requirements of the notice are to:
 1. remove the two unauthorised vent pipes and metal framework from the public highway at the front of 1 Berners Mews, W1T 3AJ shown in photograph A attached;
 2. infill the resulting holes and restore the land to its condition prior to the unauthorised works as shown in photograph B attached;
 3. remove all debris resulting from compliance with requirements 1 and 2 cited above from the land.
 - The period for compliance with the requirements is: within six months of this notice taking 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.
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Decision

1. It is directed that the enforcement notice is varied by:
 - by the deletion of 'six months' and the substitution of 'nine months' as the period for compliance.
2. Subject to the variation, the enforcement notice is upheld.

Reasons

3. The appellant installed ventilation pipes so that the property complies with gas regulations. Their location was influenced by the location of the gas meter, and the appellant states that there are no alternative locations for the ventilation pipes without extensive relocation works and the instalment of the gas meter at street level. The appellant explains that an alternative on street location for the pipes is required, and they cannot simply be removed and not replaced.
4. After the notice was issued, the appellant submitted a planning application to the Council on 7 December 2022. The Council have now determined this planning application and granted planning permission for "installation of two ventilation pipes externally at ground floor" at 1 Berners Mews.
5. The appellant intends to remove the ventilation pipes that are subject of this notice and implement the planning permission. However, I could see when I visited the site that the planning permission had not yet been implemented.

6. The notice seeks to remedy the breach of planning control. The appellant has no objection to this but seeks nine months so that they can instruct a contractor to carry out the remedial works to the ventilation pipes in situ and so that they can implement the planning permission.
7. The appellant has started the process of appointing a contractor, but I am not aware that an appointment has been made. I realise that the development subject of the notice may have been carried out in a short period of time, but the persons carrying out that work would have been identified before that work took place and the breach occurred.
8. As the appellant has explained the need to replace the ventilation pipes in situ, I consider that a nine-month compliance period is reasonable and proportionate so that the remedial works can be undertaken. The appellant may not require all this time, but the compliance period will provide a focus so that the breach is resolved in a timely manner. Accordingly, I conclude that the appeal on ground (g) succeeds.

Conclusion

9. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Andrew McGlone

INSPECTOR