



Appeal Decisions

Site visit made on 16 August 2023

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 04 September 2023

Appeal A Ref: APP/Y5420/C/23/3317910

Appeal B Ref: APP/Y5420/C/23/3317911

267 Albert Road, Wood Green, London N22 7XJ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Jenny Hansford and Appeal B is made by Sam Neophytou against an enforcement notice issued by London Borough of Haringey.
- The notice was issued on 31 January 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of railings to facilitate a roof terrace.
- The requirements of the notice are
 1. Remove the railings in its entirety
 2. Remove all resultant debris
- The period for compliance with the requirements is 2 months.
- Both appeals are proceeding on the grounds set out in section 174(2)(b) and (f) of the Town and Country Planning Act 1990 (the Act) as amended.

Decisions

Appeals A and B

1. It is directed that the enforcement notice is corrected by deleting the words "to facilitate a roof terrace" from the allegation.
2. Subject to the correction, the appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

3. The compliance date in the notice is expressed as a specific date rather than a period of time. The date that the notice would have taken effect if an appeal had not been lodged was 10 March 2023 with a compliance date of 10 May 2023 which is a period of 2 months. The period for compliance with the notice is therefore 2 months which now takes effect from the date of the issue of this Decision Letter.
4. The appeals are made under the limited grounds (b) and (f) only. The appellants who are not represented initially indicated an appeal on ground (a) on the appeal form, but then decided not to pursue ground (a). The railings are located on the flat roof of a bay window and the addition of a loft conversion in June 2017 included doors to the bay window roof. The appellants disagree with the reasons for issuing the notice and consider that the extent of any overlooking has not changed as a result of the erection of the railings. However, in the absence of an appeal under ground (a) which would have included an application for planning permission, the planning merits of the development are not matters before me for consideration.

An appeal under ground (b)

5. An appeal under ground (b), relates to whether, as a matter of fact, the allegation in the notice has occurred. The allegation is 'without planning permission, the erection of railings to facilitate a roof terrace.'
6. The appellants dispute that there is a newly erected roof terrace as they state that the 'roof terrace' has always been there but that is not the breach of planning control alleged. The breach alleged is the erection of railings to facilitate a roof terrace. The Council is not alleging a material change of use of the roof area. As a matter of fact, railings have been erected and this is not disputed by the appellants. The allegation should therefore be corrected to 'without planning permission, the erection of railings.'
7. There is no need for any amendments to the requirements as they already match the amended allegation in requiring the removal of the operational development which is the railings. I will therefore correct the allegation and the appeal under ground (b) succeeds to that extent.

. An appeal under ground (f)

8. Section 174(2)(f) of the Act states that an appeal may be made on the ground that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The requirement of the notice is to remove the railings in its entirety. The purpose of the notice is therefore to remedy the breach.
9. The appellants consider the removal of the railings is excessive. However, no lesser steps have been put forward. The appellants' arguments under ground (f) refer to the reasons for the issue of the notice and matters such as the distance between the door and the railings. However, an appeal under ground (f) is limited to whether the requirement to remove the railings is excessive having regard to the purpose of the notice not the reasons for issue. The matters raised by the appellants under this ground relate to ground (a) and I am not considering within this appeal whether or not planning permission should be granted for the railings.
10. As the purpose of the notice is to remedy the breach of planning control that has occurred, the requirement to remove the railings is not excessive. The appeal under ground (f) fails.

Other Matters

11. The appellants question the Council's decision to issue a notice, the manner in which a site visit took place, and the absence of discussions between the parties. However, these are matters to address with the Council as they do not fall within the remit of this appeal.

Conclusion

12. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction.

E Griffin INSPECTOR