
Appeal Decision

Site visit made on 22 August 2023

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 September 2023

Appeal Ref: APP/Q5300/C/23/3318307

11 Bourne Hill, London N13 4LJ

- 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 Mr Antonakis Kyprianou against an enforcement notice issued by the Council of the London Borough of Enfield.
 - The enforcement notice was issued on 13 February 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised erection of a first floor side extension (identified in blue on the plan for identification purposes).
 - The requirements of the notice are:
 - 5.1 Demolish the unauthorised first floor side extension.
 - 5.2 Remove all resulting waste materials from the site.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) and (g) of the Town and Country Planning Act 1990 as amended. 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 as amended have lapsed.
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Decision

1. It is directed that the enforcement notice is:
 - varied by deleting the words "Two (2) months" within section 6 (time for compliance) and its replacement with "3 months".
2. Subject to the variation, the appeal is dismissed, and the enforcement notice is upheld.

The appeal on Ground (b)

3. To succeed on this ground, the onus is upon the appellant to demonstrate on the balance of probabilities that the allegation has not occurred as a matter of fact. The appellant refutes the allegation and states that the works cannot reasonably be described as a first-floor side extension because it comprises one unfinished front wall.
4. The Council received a complaint in June 2021 regarding the unauthorised erection of a first-floor side extension. They state that they observed that the first-floor side extension was constructed full width, which did not match the approved plans. Furthermore, the photographic evidence submitted by the Council show that a significant parts of the front, side and rear walls of an extension above the existing ground floor side extension have been

constructed. Indeed, I also observed similar works carried out above the ground floor side extension during my site inspection. The appellant also accepts that he was in the process of building a first-floor side extension, at the time the Notice was served.

5. Therefore, on the balance of probabilities I consider that the matters as alleged by the notice have occurred as a matter of fact. There has therefore been a breach of planning control and the limited evidence put forward in support of the contention that the breach has not occurred falls well short of discharging the burden of proof.
6. Accordingly, the appeal on ground (b) must fail.

The appeal on Ground (g)

7. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 2 to 3 months, to allow for time to carry out the remedial works.
8. The time for completing the requirements should be what is reasonably considered necessary to complete the requirements. In my view, 3 months would strike a reasonable and proportionate balance to carry out the remedial works. The Council have also confirmed they have no objection to this. I shall therefore extend the period from 2 to 3 months for compliance with the notice.
9. To this extent, the ground (g) appeal succeeds, and I will vary the notice accordingly.

Conclusion

10. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variation.

R Satheesan

INSPECTOR