



Appeal Decision

Site visit not required

by D Hartley BA(Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date 19 October 2023

Appeal Ref: APP/P4605/C/22/3302935

1136A Stratford Road, Hall Green, Birmingham B28 8AE

- 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 Mohammed Riaz against an enforcement notice issued by Birmingham City Council.
 - The enforcement notice, numbered 2021/0336/ENF, was issued on 23 June 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of the rear extension to 2 self-contained flats at ground floor levels in the approximate position marked in green on the attached plan.
 - The requirements of the notice are i. Cease the use of the rear extension as 2 self-contained flats at ground floor level and ii. Remove any fixtures and fittings associated with the unauthorised use.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) 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. The appeal is dismissed and the enforcement notice is upheld.

Ground (f) appeal

2. An appeal on ground (f) makes the claim 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.
3. The appellant's case under ground (f) is that a planning application has been submitted to the Council for one flat instead of the two that are the subject of the enforcement notice. On this basis, the appellant states that as there is a proposal to replace two flats with one the requirements of the notice are excessive. There is no ground (a) appeal before me and so it is not possible for me to consider the planning merits of one flat instead of two.
4. The purpose of the notice is to remedy the breach of planning control. Therefore, the steps in the notice are not excessive. The separate proposal for one flat is not relevant to the consideration of this ground (f) appeal.
5. For the above reasons, I conclude that the ground (f) appeal fails.

Conclusion

6. For the reasons given above, I consider that the appeal should not succeed.

D Hartley

INSPECTOR