



Appeal Decision

Site visit made on 18 September 2023

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date 20 October 2023

Appeal Ref: APP/T5150/C/22/3307996

16 Honiton Road, London, NW6 6QE

- 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 Pedro Barroso against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice was issued on 22 August 2022.
- The breach of planning control as alleged in the notice is Without planning permission, the erection of a single storey side extension, the erection of a single storey rear extension, the installation of replacement windows, alterations to the rear dormer, the installation of waste pipework to the side elevation, and alterations to the boundary wall including increasing its height and part-demolition.
- The requirements of the notice are STEP 1 Demolish the single storey side extension and single storey rear extension; STEP 2 Remove the current windows and install windows that precisely replicate the design of the original timber sash windows, ensuring they are of the same overall arrangement and proportions as the original windows; STEP 3 Alter the rear dormer by removing the current windows and installing sash windows that are of the same proportions as the original windows in the main building below, ensuring the front face is predominantly glazed and similar to the example "Photograph 1" attached to this notice; STEP 4 Remove the waste pipework to the side elevation; STEP 5 Alter the boundary walls, including reducing the height and rebuilding the demolished section, so that they replicate exactly what existed before the unauthorised development took place; STEP 6 Remove all items associated with the unauthorised development, and all materials, waste and debris, arising from compliance with the above steps, from the premises.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal is brought on ground (a), an application for planning permission is deemed to have been made under s177(5) of the Town and Country Planning Act 1990.

Summary Decision: No further action is taken.

The Notice

1. Section 173(1) and (2) of the Town and Country Planning Act 1990 ('1990 Act') require that an enforcement notice shall state the matters which appear to constitute a breach of planning control and that a notice must enable the person on whom the notice is served to know what those matters are. Section 173(3) of the 1990 Act then stipulates that an enforcement notice shall specify the steps which the local planning authority requires to be taken, or the activities which the local planning authority requires to cease in order to remedy the alleged breach of planning control or remedy any injury to amenity caused by the breach.

2. Thus, a recipient of an enforcement notice must fairly be able to tell from the four corners of the notice what must be done to remedy the alleged breach. Here, the allegation includes reference to 'alterations to the rear dormer'. The requirement at Step 3 in relation to this aspect of the breach then requires that the dormer is altered by removal of the current windows and installation of sash windows that are 'of the same proportions as the original windows in the main building below' with additional stipulations that the front face of the dormer is 'predominantly glazed' and 'similar to the example "Photograph 1" attached to this notice'.
3. The appellant draws my attention to concerns that this requirement is vague in that it lacks specificity as to which original windows are to be referenced as regards the proportions of the dormer sash windows. Indeed, the appellant also indicates that the existing opening for the dormer window is of a different size and shape to any other opening in the appeal building. The appellant also identifies that the photograph which is referenced is not scaled and relates to a differently sized dormer on a different building. Further, the requirements for the dormer face to be 'predominantly' glazed and for it to be 'similar' to that in the photograph attached to the notice result in further imprecision.
4. It is clear then that the Step 3 requirement in relation to the alleged rear dormer alteration is for these reasons hopelessly ambiguous and uncertain, such that the recipient of the notice cannot tell with reasonable certainty what steps must be taken to remedy the alleged breach. As such, the enforcement notice is a nullity since the requirements of s173 of the 1990 Act have not been met.

Conclusion

5. I conclude that the notice is a nullity. In these circumstances, the appeals on the grounds set out in section 174(2)(a) and (f) of the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not fall to be considered.

Formal Decision

6. Since the notice is found to be a nullity, no further action will be taken in connection with the appeal. In the light of this finding the Local Planning Authority should consider reviewing the register kept under section 188 of the 1990 Act as amended.

V Bond
INSPECTOR