



Appeal Decision

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 06 December 2023

Appeal Ref: APP/J2373/C/22/3313812
29 Hurstmere Avenue, Blackpool, FY4 3EJ

- 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 Twana Mohamad against an enforcement notice issued by Blackpool Borough Council.
 - The enforcement notice, numbered 20/8175 OPS, was issued on 24 November 2022.
 - The breach of planning control as alleged in the notice is the erection of a rear extension not in accordance with 'Prior Approval' reference 19/0412.
 - The requirements of the notice are I. Reduce the length of the rear extension to be in accordance with the 'Prior Approval' length of 6 metres; II. Maintain the current width of the rear extension of 5 metres; III. Clad all elevations of the rear extension in a material the same colour and texture of the main dwelling..
 - The period for compliance with the requirements is 2 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.
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Decision

1. It is directed that the enforcement notice is varied by the deletion of the words in paragraph 5 I. II. & III. and the substitution of the words "Alter the rear extension so that it complies with the terms of Prior Approval reference 19/0412".
2. Subject to these variations the enforcement notice is upheld.

Ground (f)

3. An appeal on this ground is on the basis that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control constituted by the matters stated in the notice.
4. The appellant has not suggested an additional scheme or lesser steps to be considered, but is instead arguing that permission should be granted for the development alleged in the notice. This argument should have been made as an appeal under ground (a) as the planning merits of the development would need to have been considered in any such determination. Since the appeal under ground (a) has not been brought, and the prescribed fees have not been paid, an appeal on ground (a) and the deemed planning application has not been considered as part of this decision.
5. The purpose of the enforcement notice is to remedy the breach of planning control, in this case the failure to build the rear extension in accordance with

Prior Approval 19/0412. The requirements should therefore be varied so that they correspond to the allegation and state that the development is made to comply with the terms of the Prior Approval reference 19/0412, which will be in accordance with section 173(4)(a) of the 1990 Act. This would reflect the purpose of the notice and the case made in support of it by the Council and would not exceed what is necessary to remedy the breach. I am satisfied that I can make this variation without causing injustice to either party as it simply provides clarity and is no more onerous.

6. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control. I shall vary the enforcement notice prior to upholding it. The appeal under ground (f) succeeds to that extent.

Zoë Franks

INSPECTOR