



Appeal Decision

Site visit made on 15 November 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2023

Appeal Ref: APP/Y5420/C/22/3309488

278 Philip Lane, London N15 4AD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Keith Phipps against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The notice was issued on 8 September 2022.
 - The breach of planning control as alleged in the notice is the unauthorised installation of UPVC windows on the front, side and rear elevations at the first and second floor level of the building.
 - The requirements of the notice are:
 1. Remove the UPVC windows installed on the front, side and rear elevations at the first and second floor levels of the building.
 2. Remove from the land any debris resulting from carrying out step 1) above.
 - The period for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(e), (f), and (g) 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:
 - In section 5 the deletion of "3 month(s)" and the substitution of the words "Six months".
2. Subject to the above variation, the appeal is dismissed and the enforcement notice is upheld.

The Notice

3. In the appeal submissions the appellant appears to question the validity of the enforcement notice, raising concerns with the requirements of the notice.
4. The enforcement notice requires the removal of the UPVC windows without specifying replacements. That is a perfectly acceptable approach for the Council to take. Although the requirements would potentially leave the building open to the elements or insecure, it will be for the appellant to seek planning permission from the Council for any further works that may be required.
5. The notice is perfectly clear on its face, and the failure to specify replacement windows in the notice does not make the notice a nullity or affect its validity.

Ground (e)

6. An appeal on this ground is made on the basis that copies of the enforcement notice were not served as required by section 172 of the Town and Country Planning Act 1990. However, the appellant's case in relation to this ground of

appeal relates to the requirements of the notice, which I have dealt with in 'The Notice' above.

7. The evidence indicates that the enforcement notice was served on the owner and occupier of the land, and in accordance with all other aspects of section 172 of the 1990 Act. The appellant also fails to identify any other parties with an interest in the land that should have been served, or how they may have been prejudiced by such a failure.
8. There is therefore no evidence that the notice was improperly served. As a result, the appeal on ground (e) fails.

Ground (f)

9. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. Section 173(4) of the Act sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, (a) to remedy the breach of planning control that has occurred, or (b) remedying any injury to amenity which has been caused by the breach. In this case, the requirements of the notice are to remove the unauthorised development in its entirety. The purpose of the notice must therefore be to remedy the breach of planning control.
10. The appellant has not suggested any lesser steps but instead argues that the requirements of the notice should go further, and detail what should replace the UPVC windows following their removal. However, no details or plans of what the appellant considers should replace the UPVC windows have been provided.
11. In any event, as there is no appeal under ground (a) there is no deemed application for planning permission, and therefore there could be no arguments about the planning merits of any proposed replacements under ground (f). The only consideration is whether the requirements exceed what is necessary to achieve the identified purpose of the notice.
12. Since the purpose of the notice is to remedy the breach of planning control, no lesser steps other than those set out in the notice would achieve that purpose. Therefore, the appeal on ground (f) fails.

Ground (g)

13. The appeal on ground (g) is that the time given to comply with the requirements of the notice is too short. The notice specifies a period of three months after the notice takes effect.
14. The appellant argues that the compliance period is insufficient due to the need to obtain various permissions from the local planning authority, building control, and highways authority in order to carry out the works. A compliance period of nine months has been suggested.
15. As already addressed in 'The Notice' above, compliance with the enforcement notice would potentially leave the building open to the elements or insecure. As such, it is understandable that the appellant would wish to first obtain planning permission for suitable replacements. Given that the time period for determining such a planning application is eight weeks, there would remain

very little time for other necessary actions to be carried out including the preparation of the planning application, obtaining any other permissions, and actually carrying out the works on site.

16. Whilst I am mindful that any harm resulting from the breach of planning control should be remedied as soon as possible, in view of the above I consider that a period of six months would be a more appropriate and reasonable period for compliance. The appeal under ground (g) therefore succeeds to that extent and the enforcement notice has been varied accordingly.

Conclusion

17. For the reasons given above I conclude that the appeal does not succeed, save for ground (g). I have therefore upheld the enforcement notice with a variation.

David Jones

INSPECTOR