



Appeal Decision

by Gareth Symons BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2024

Appeal Ref: APP/T5150/C/23/3319325

85 Goldsmith Lane, London, NW9 9AR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Louise Orrock against an enforcement notice issued by London Borough of Brent.
 - The notice was issued on 1 March 2023.
 - The breach of planning control as alleged in the notice is Without planning permission the installation of new windows to the front of the premises.
 - The requirements of the notice are: 1. Remove the windows to the front of the premises; 2. Remove all debris and items, arising from the removal, and all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the Enforcement Notice (EN) is upheld.

Preliminary Matters

2. The appeal was originally made under grounds (c) and (f), but in the appellant's statement of case it was made clear that the ground (f) appeal had been withdrawn. However, the appellant's response to my communication that I considered a site visit was not necessary, which I deal with below, seemed to raise a confusion about whether the ground (f) appeal had in fact been withdrawn. To overcome this, and because the Council has made comments under ground (f) anyway, I have proceeded to include a ground (f) appeal.
3. Also, comments have been made under the ground (e) section of the appeal form. The concern raised does not appear to be that copies of the EN were not served as a required, but that a copy may have been served on Flat 87. That appears to have been concluded based on Flats 85 and 87 being indicated on the plan attached to the EN showing the land affected. However, the EN plan is for land identification purposes only and the EN makes clear in Schedule 1 that the land or premises affected is only No. 85. Moreover, the list of persons served with a copy of the EN does not include Flat 87. Against this background there does not appear to be any service anomaly and I shall not consider the issue any further.
4. There is no appeal under s174(2)(a) of the 1990 Act and so I cannot take any matters of planning merit into account. Due to the limited extent of the appeal grounds, and the written evidence to be considered, it was not necessary for me to visit the site to see the windows. Neither appeal party has been prejudiced by this approach.

Ground (c)

5. In legal grounds of appeal, such as in ground (c), the burden to make out the case rests firmly with the appellant. An appeal on this ground is based on the claim that the matter stated in the enforcement notice, which in this case is the installation of windows, does not constitute a breach of planning control.
6. The appellant has drawn comparisons with the new windows and the advice in the Roe Green Village Conservation Area Design Guide. Furthermore, attempts have been made to refer to the style of the original windows. However, there is little information to substantiate that the works may not have materially affected the external appearance of the building to thus not constitute development.
7. In any event, the appellant appears to accept that the development carried out is a breach of planning control due to references such as not seeking planning permission "was an oversight rather than deliberate", the variation from conservation guidelines "do not constitute a serious breach of planning control" and that they "forgot to seek planning permission". Given what I have said above about where the burden to make the case out in legal grounds of appeal lies, these admissions do not assist the appellant's case.
8. Reference has been made to the works being permitted development. However, rights to improve or alter a dwellinghouse do not apply to buildings that contain one of more flats or to a flat contained within such a building. Consequently, given that the premises in this case is a flat, the new windows cannot be development which has planning permission granted by the Town and Country Planning (General Permitted Development) Order 2015.
9. Having regard to the above, the ground (c) appeal cannot succeed.

Ground (f)

10. The requirements of the EN seek to have the windows removed entirely. Consequently, the purpose of the EN is to remedy the breach of planning control. The requirements do no more than is necessary to achieve that purpose. Thus, they are not excessive and so the ground (f) appeal fails.

Conclusion

11. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Gareth Symons

INSPECTOR