



Appeal Decision

Site visit made on 5 February 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2024

Appeal Ref: APP/F5540/C/22/3313269

66 Parkwood Road, Isleworth TW7 5HD

- 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 L Sekhon against an enforcement notice issued by the Council of the London Borough of Hounslow.
 - The enforcement notice was issued on 18 November 2022.
 - The breach of planning control as alleged in the notice is the 'Unauthorised construction of a deck & privacy screen.
 - The requirements of the notice are:
 - i. Demolish the deck & privacy screen
 - ii. Remove all resultant debris from the Land.
 - The period for compliance with the requirements is 3 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. It is directed that the enforcement notice be varied by:
 - Deletion of requirements i) and ii) under section 5 (What you are required to do), and substituted therefore by the following steps:
 - 1) Demolish the deck and privacy screen;
 - Or
 - 2) Carry out the rear deck in accordance with the plans and conditions approved by the Council under the planning permission reference: 00865/66/P1 approved on 1 February 2013;
 - And
 - 3) Remove all constituent materials from the land resulting from the compliance with steps 1 or 2 above.
2. Subject to this variation, the enforcement notice is upheld.

The appeal on Ground (f)

3. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to

- remedy any breach of planning control which may be constituted by those matters (i.e. the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
4. The enforcement notice requires the demolition the deck and privacy screen, and therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.
 5. As the notice does no more than seek remedy of the breach, it is not excessive. However, planning permission ref: 00865/66/P1 granted consent for the "Demolition of existing side garage, erection of a two storey-side extension and single storey ground floor rear extension to the existing dwelling house". A copy of the Decision Notice and approved plans have been submitted with this appeal and show that the approved scheme included a rear deck providing access to the garden level. This approved scheme has been implemented, save for the deck.
 6. Case law has established that enforcement should be remedial rather than punitive. In light of this extant planning permission, the breach of planning control could be addressed through an alternative option to require the development to be carried out in accordance with the plans and conditions approved under ref: 00865/66/P1. This would achieve the purpose of the notice which is to remedy the breach.
 7. No persuasive argument has been made by the Council to explain why it would not be possible to implement this approved deck. I will therefore add an alternative requirement to make the development comply with the plans and conditions approved under the previous planning permission which would remedy the breach of planning control, in line with s173(4)(a) of the 1990 Act. Varying the notice on this basis would cause no injustice to either party, as it would not make it more onerous.
 8. As such, the appeal on ground (f) succeeds and I will vary the notice to insert this alternative requirement.

Conclusion

9. For the reasons given above, whilst the requirements of the notice are not excessive to remedy the breach, in light of the previous planning permission it is reasonable to require the development to comply with the plans and conditions approved with this application. The appeal on grounds (f) succeeds to that extent.

R Satheesan

INSPECTOR