



Appeal Decision

Site visit made on 22 February 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2024

Appeal Ref: APP/G5750/C/21/3287419

70 Keogh Road, Stratford, London, E15 4NS

- 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 Mrs Saeeda Saiyad against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 27 October 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey ground floor rear extension.
 - The requirements of the notice are:
 1. Demolish the single storey ground floor rear extension (as shown in the approximate location edged in blue on the attached plan, and as shown edged in yellow on the photograph attached at Appendix 1).
 2. On completion of step 1 above, remove all materials and debris from the site.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (d) and (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. The appeal is dismissed, and the enforcement notice is upheld.

The ground (d) appeal

2. The onus is on the appellant under ground (d) to make the case that, at the time the enforcement notice was issued, it was too late to take action against the matters stated in the notice. The enforcement notice is directed at the alleged erection of a single storey ground floor rear extension. Consequently, the appellant needs to show that the matters alleged in the notice occurred at least 4 years before it was issued (which was 27 October 2021). If the Council has no evidence of its own, or from others, to contradict or otherwise make the version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant's evidence alone is, on the balance of probability, sufficiently precise and unambiguous.
3. The appellant's stance is that they had a lean-to structure which was used for outdoor storage from around 2001. However, only an aerial photograph has been submitted to support this claim which does not clearly show the previous structure. Furthermore, the structure in the aerial photograph appears to extend to the side of the existing two storey back addition only, whereas the

existing structure extends well beyond the rear wall of the existing back addition as well as to the rear of the two storey back addition, and thus is materially different from the former lean-to structure.

4. Furthermore, the appellant confirms that the former structure was demolished prior to the construction of the current ground floor rear extension and an aerial photograph from Google Maps shows that neither the former lean-to nor the current single storey rear extension existed in June 2019. Indeed, the Google Maps photograph provided by the Council shows that the current extension was in place in April 2020. It seems to me that these photographs provided by the Council provide the most clear, unambiguous and cogent evidence.
5. It is well established in planning law that the onus rests with the appellant to make out his or her case. However, on the evidence before me, I find that burden has not been satisfactorily discharged in this particular case.
6. On the balance of probability, I conclude that at the time the notice was issued it was not too late to take enforcement action against the alleged breach of planning control.
7. The ground (d) appeal therefore fails.

The appeal on Ground (f)

8. 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".
9. The enforcement notice requires the demolition of the unauthorised development, and therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.
10. The appellant states that the canopy element of the rear extension was not part of the part of the previous lean-to structure and therefore suggests removing this part only. However, the former lean-to structure was demolished prior to the erection of the current single storey rear extension and there is no planning permission for this previous structure. Furthermore, from the limited Google Maps evidence submitted, the current unauthorised development is a single building operation and thus amounts to a single enlargement for which planning permission is required. It is not appropriate to treat each part of the rear extension as if it were two separate developments as suggested by the appellant. I am therefore satisfied that it is not excessive to require the unauthorised development to be demolished.
11. I appreciate that the extension provides extra storage for the appellant who is elderly and struggles to go up stairs without help. I have great sympathy for the appellant's circumstances. However, since there is no appeal on ground (a), there is no deemed planning application. Therefore, I cannot assess the planning merits of the case, and must take the notice at face value which seeks to remedy the breach.
12. As the notice does no more than seek remedy of the breach, it is not excessive. Therefore, it is not possible to vary the notice in the ways suggested by the

appellant whilst achieving the purpose of the notice. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.

13. On this basis, the Ground (f) appeal fails.

Conclusion

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

R Satheesan

INSPECTOR