



Appeal Decision

Site visit made on 22 November 2023 by N Unwin BSc (hons) MSc MRTPI

by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2024

Appeal Ref: APP/G5750/C/23/3318604

139 Hampton Road, Forest Gate, London E7 0RD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Imtiaz Gul-Mohamed against an enforcement notice issued by the Council of the London Borough of Newham.
- The notice was issued on 8 February 2023.
- The breach of planning control as alleged in the notice is Without planning permission, the undertaking of unauthorised works to the front garden consisting of the laying of two areas of block paving.
- The requirements of the notice are to:
 - 1) remove the two areas of block paving (as shown in the approximate location edged in blue on the attached plan), inclusive of any associated sub-base.
 - 2) On completion of step 1 above, remove all associated materials and debris from the site.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. It is directed that the enforcement notice is varied with the addition of the following requirement below requirements 1 and 2 of section 5:

Or

3) Carry out alterations so that the development complies with the terms of the planning permission 22/00122/HH dated 22 April 2022 including the conditions subject to which that permission was granted.

2. Subject to the above variations, the enforcement notice is upheld.

Appeal Procedure

3. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Appeal on Ground (f)

4. An appeal under ground (f) is that the requirements of the notice exceed what is necessary to achieve its purpose. The purposes of a notice are to remedy the breach of planning control or to remedy any injury to amenity. As the notice requires the removal of the block paving and associated sub-base, the purpose of the notice is to remedy the breach of planning control.
5. The appellant submits that the complete removal of the block paving is excessive and that it could be modified by way of an alternative scheme.

Nevertheless, where there is no appeal under ground (a) there is no deemed application for planning permission. As such, and whilst there are representations in support of an alternative development, there can be no arguments about or consideration of the planning merits of the development alleged under ground (f).

6. Notwithstanding the above, the appellant contends that they could implement planning permission ref. 22/00122/HH and the Council do not dispute this. As such, it is reasonable to remedy the breach by making the development comply with the terms of the extant permission. The varied requirements would achieve the purpose behind the notice and my proposed variation would not result in an onerous notice.
7. For the reasons given above, I conclude that the requirements of the issued notice are excessive, and an alternative step (3) should be inserted. I shall vary the enforcement notice prior to upholding it. The appeal on ground (f) succeeds to that extent only.

Appeal on ground (g)

8. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant's argument is largely based on personal circumstances that would delay the commencement of the required works.
9. The purpose of the period of compliance is to allow for the physical works associated with the notice to be carried out. The appellant's submission largely relates to the time before works can commence.
10. Whilst I sympathise with the appellant's circumstances, I consider the period of six months as specified in the notice, as varied, is proportionate to the breach of planning control that has occurred and is reasonable. The appeal on ground (g) fails.

N Unwin

Appeal Planning Officer

Inspector's Decision

11. I have considered all the submitted evidence and my representative's recommendation and, on that basis, subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

A U Ghafoor

INSPECTOR