
Appeal Decision

Site visit made on 25 April 2024

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 17 May 2024

Appeal Refs: APP/W2465/C/23/3334044 and 3334045
12 Narrow Lane, Leicester LE2 8NA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr and Mrs Adcock against an enforcement notice issued by Leicester City Council.
- The enforcement notice was issued on 26 October 2023.
- The breach of planning control as alleged in the notice is *without planning permission, alterations to the first floor window in the side elevation (facing 16 Narrow Lane) of the Property*.
- The requirements of the notice are to remove the relevant first floor window and to replace it with an obscure glazed window that is non-opening below 1.7m above the floor level of the room it serves.
- The period for compliance with the requirements is two months.
- The appeals are proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.

Summary Decision: the appeals are dismissed.

Main Issue

1. The only issue for consideration, given the grounds of appeal raised, is whether the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control alleged by the notice or, as the case may be, to remedy any injury to amenity caused by the breach.

Reasons

2. No appeal has been brought on grounds to say that no breach of planning control has arisen, or that permission should be granted for it if it has. The ground of appeal raised is that the steps required by the notice are excessive, but no alternative steps have been put before me for consideration. The appellants' case in support of the appeals disputes that any harm is caused by the new window, but I am unable to consider this in the absence of an appeal on the ground that seeks planning permission.
3. The Council say the purpose of the notice is to remedy the harm, which they describe as a loss of privacy to the adjoining neighbours because the form of the window allows for overlooking of those neighbours' living areas. Although no alternative steps have been put before me by the appellants, I should consider whether any obvious alternative or lesser step might achieve the purposes of the notice with less cost and disruption.

4. The notice requires the replacement of the window with one that cannot open beneath 1.7m above floor level. That outcome, to prevent overlooking of the adjoining house, could potentially be achieved by requiring the existing window to be made non-opening or with a very restricted opening. However, I cannot be satisfied that a satisfactory ventilation outcome would result, given the damp problems that are said to have led to the replacement of the window in the first place. Therefore they do not appear to me to be obvious alternatives to the steps required by the notice.

Conclusion

5. No other obvious alternatives to the steps set out in the notice present themselves, and so for the reasons given above I conclude that the appeals should not succeed.

Formal Decisions

6. The appeals are dismissed and the enforcement notice is upheld.

Laura Renaudon

INSPECTOR