



Appeal Decision

Site visit made on 28 May 2024

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2024

Appeal Ref: APP/T5150/C/22/3313003

1-2 Old Kenton Lane, London NW9 9LY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Miss Tracy Salvin against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 16 November 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an outbuilding to the rear of the premises and the installation of a shipping container to the front of the premises.
 - The requirements of the notice are: 1. Demolish the outbuilding to the rear of the premises. 2. Remove the container and its contents from the front of the premises. 3. Remove all debris and items, arising from the compliance with the above steps and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is three 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 have lapsed.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Ground (f) appeal

2. The ground of appeal is that the requirements of the enforcement notice are excessive.
3. The appeal property contains a pair of semi-detached residential buildings. The notice attacks a freestanding timber outbuilding erected at the rear of the buildings, as well as a metal shipping container set up in the grounds.
4. An enforcement notice can have the purpose of remedying the breach of planning control, including by restoring the land to its condition before the breach took place, or its purpose can be to remedy any injury to amenity which has been caused by the breach. In this instance, the purpose of the notice must be to remedy the breach. Not only does the notice clearly state this but the requirements involve removing both the outbuilding and the container, by which the property would be restored to its condition before the breach took place.
5. Requiring the outbuilding to be altered, for example by replacing the pitched roof with a flat roof and moving the container to another spot within the grounds, would sustain the breach. The container and most of the outbuilding would still remain at the property. The property would not be restored to its condition before the breach took place and the purpose of the notice would not

- be achieved. Accordingly, altering the outbuilding and moving the container do not represent obvious alternatives to the notice requirements.
6. Moreover, any alternative requirement which resulted in something less than the total removal of the outbuilding and container would attack the substance of the notice. Such an outcome is not within the scope of what can be achieved in a ground (f) appeal where, as in this instance, the purpose of the notice is to remedy the breach and there is no deemed planning application following an appeal having been made on ground (a). No other alternative to the notice requirements was advanced and to my mind, nothing less than those requirements would remedy the breach.
 7. Therefore, the notice requirements are not excessive; they are a proportionate remedy involving the minimum works necessary to restore the property to its condition before the breach took place.
 8. The ground (f) appeal fails.

Conclusion

9. For the reasons given above I consider that the appeal should be dismissed.

Stephen Hawkins

INSPECTOR