

Appeal Decisions

Site visit made on 28 August 2024

by Siobhan Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2024

Appeal A Ref: APP/U4230/C/23/3333581

63 Ringlow Park Road, Swinton, Salford, M27 0HA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Matthew Boulter against an enforcement notice issued by Salford City Council.
 - The notice was issued on 23 October 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of second floor rear extension and dormer in the approximate position shown edged orange and coloured pink on the attached plan.
 - The requirements of the notice are to: 1. Remove the rear dormer roof extension and restore the rear roof plane of the development to its original pitch and alignment in materials to match the existing roof; 2. Remove all demolition materials from the site.
 - The period for compliance with the requirement is: 90 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(f), (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The enforcement notice is quashed.

The Notice

2. S173(2) of the Act says that an enforcement notice (EN) complies with s173(1)(a) if it 'enables any person on whom a copy of it is served to know what those matters are', being the matters alleged to constitute the breach. S173(3) makes clear that the EN shall specify the steps required to be taken to achieve wholly or partly any of the purposes set out in s173(4). The EN must tell the recipient fairly what they have done wrong and what they must do to remedy it.
3. The allegation is the erection of "second floor rear extension and dormer". The word "and" indicates that there are two components to the alleged unauthorised development, i.e., a second-floor extension and a dormer. The requirement is to "remove the rear dormer roof extension and restore the rear roof plane...". Only one element, a dormer, is referred to in the requirements. The requirement to restore the rear roof "plane" only refers to one rear roof plane. However, there is an extension on two roof planes. One roof plane is rear facing and the other is side facing. The allegation and the requirements

do not align and it is unclear what the appellant is expected to do, i.e., whether they are to remove both parts of the roof extension, on both the outrigger and the main roof, or not. The extent of the required demolition is not clear.

4. If I consider the EN is defective, I have broad powers under S176(1)(a) to make corrections. However, I can only do so where I am satisfied that this will not cause injustice to either the appellant or the Council. If the EN cannot be corrected, I must quash the notice.

Conclusion

5. For the reasons given above, I conclude that the EN does not specify with sufficient clarity the alleged breach of planning control and the steps required for compliance. Furthermore, I am unable to make corrections without them resulting in injustice to at least one of the parties. As such, I am unable to correct the notice in accordance with my powers under section 176(1)(a) of the 1990 Act as amended. The enforcement notice is therefore invalid and will be quashed.
6. It is open to the Council to serve a further EN which clearly sets out the nature of the breach and the requirements, should it consider it expedient to do so, subject to the provisions of section 171B(4) of the 1990 Act as amended.
7. In these circumstances, the appeal on grounds (f) and (g) set out in section 174(2) of the Act do not fall to be considered.

Siobhan Watson

INSPECTOR