



Appeal Decision

Site visit made on 13 December 2024

by **L Perkins BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 January 2025

Appeal Ref: APP/N1920/C/24/3345432

22 Birch Grove, Potters Bar, Hertfordshire EN6 1SY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Julia Leonida against an enforcement notice issued by Hertsmere Borough Council.
 - The notice was issued on 30 May 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a single storey rear extension at ground floor level ("the unauthorised development")
 - The requirements of the notice are:
 - 1) Remove the unauthorised rear extension in its entirety from the premises; or reduce the height and depth of the extension to comply with permitted development regulations.
 - 2) Remove from the land all materials and debris resulting from compliance with the above step.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. Since the notice is found to be a nullity, no further action will be taken in connection with the appeal. In the light of this finding the Local Planning Authority should consider reviewing the register kept under section 188 of the 1990 Act as amended.

Preliminary Matter

2. I have dealt with another appeal on the same site, Ref APP/N1920/X/24/3344724.

The Notice

3. Amongst other things, section 173(3) of the 1990 Act states that an enforcement notice shall specify the steps which the authority require to be taken.
4. As has been established in case law, the recipient of an enforcement notice is entitled to find out from within the four corners of the document what one is required to do. Thus, any requirement of an enforcement notice cannot be so fundamentally vague or uncertain that the recipient does not know how to comply.
5. Requirement 1 of the enforcement notice provides recipients of the notice the option to reduce the height and depth of the extension "*to comply with permitted development regulations*". But the notice does not specify exactly which regulations these are.
6. I have considered whether I may use my powers under section 176(1) of the 1990 Act, to correct or vary the notice. But the permitted development regulations with which I am familiar are set out in a document which runs to some 425 pages.

7. I cannot guess precisely which regulations in this document the Council wishes recipients of the enforcement notice to comply with. Nor should I have to and nor should any recipient of the enforcement notice.
8. Therefore, I have reached the view that the notice is vague and uncertain. Consequently, as a matter of my judgement, any recipient of this enforcement notice cannot tell with reasonable certainty exactly what steps they have to take, so the notice does not comply with section 173(3) of the 1990 Act.
9. I have considered whether I could delete the problematic phrase in requirement 1. But this would deny recipients of the notice a lesser step than removing the unauthorised extension. This would leave the appellant in a worse-off position than if they had not appealed and so injustice would be caused to the appellant if I were to attempt to correct the notice in this way. This would not comply with the test of injustice set out in section 176 of the 1990 Act and so I cannot correct the notice.
10. A further discrete issue is that the notice identifies harm arising from the “*unsympathetic finish materials*” of the extension but requirement 1 of the notice gives recipients the option to reduce the height and depth of the extension without any change to its finish or materials. Whilst this issue does not go to whether the notice is a nullity, the notice should not identify harm arising from the finish or materials used for the extension where those are not attacked by the notice.

Other Matters

11. I am aware of the concerns of the occupant of the adjoining dwelling. But I cannot address those concerns in an enforcement appeal where the enforcement notice has been found to be a nullity.

Conclusion

12. I conclude that the notice is a nullity. In these circumstances, the appeals on the grounds set out in section 174(2)(a) and (f) of the 1990 Act (as amended) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) do not fall to be considered.

L Perkins

INSPECTOR