



Appeal Decision

Site visit made on 17 December 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

Appeal Ref: APP/D5120/C/22/3313687

62 Avenue Road, Bexleyheath, Kent, DA7 4EG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Ibrahim Hamad on behalf of Glasshouse Bexleyheath Ltd against an enforcement notice issued by the Council of the London Borough of Bexley.
 - The enforcement notice was issued on 15 November 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a front single storey extension with a retractable roof and raised patio area as shown in the photograph attached to this Notice and marked, "Photograph 1", and shown in the approximate location outlined in blue on the Plan attached to this Notice.
 - The requirements of the notice are:
 - 1) Remove the single storey extension with a retractable roof and sides to the front elevation of 62 Avenue Road, Bexleyheath, Kent, DA7 4EG, ("the Land"), as shown in Photograph 1 attached to this Notice.
 - 2) Remove, the raised patio area, base, brickwork and foundations for from the Land; and
 - 3) Reinstate the Land to match, the level, degree of slope and materials used on the forecourt of No.64 Avenue Road as shown in Photograph 1, attached to this Notice.
 - 4) Remove all resultant demolition materials from the Land.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (d), (f) and (g) 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 as amended have lapsed.
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Decision

1. The appeal is allowed in part on ground (g), and it is directed that the enforcement notice be:
 - Corrected by deleting the words "and raised patio area" within section 3 [The matter(s) which appear to constitute the breach of planning control] of the notice;
 - Corrected by deleting the second, third and fourth requirement within section 5 of the notice (what you are required to do) and its replacement with:

"2) Remove all resultant demolition materials from the land."

- Varied by deleting the words “Four (4) months” within section 6 (Time for compliance) and its replacement with “7 months”.
2. Subject to these corrections and variations the enforcement notice is upheld.

Preliminary Matters

3. The appellant originally submitted an appeal on ground (d) and (f), in relation to the “raised patio” element of the Notice. In response to the Inspector’s letters regarding the raised patio, the Council requested a correction to the Notice, by deleting the words “raised patio” from the allegation and also deleting sections 5(2) and 5(3) (also in relation to the raised patio) of the Notice. Since both parties raised no objection to this request, I will correct the Notice accordingly. This would not cause injustice and I can therefore use my powers under the provisions of s176(1)(a) to make this correction. Since reference to the ‘raised patio’ will be deleted from the Notice, it is no longer necessary to consider this further under grounds (d) and (f).

The appeal on Ground (g)

4. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 4 months to 2 years, in order to provide additional time to raise the funds to carry out the works in a way that does not compromise the running of the business and threaten its viability.
5. Given that there is no ground (a) appeal, I must take the notice at face value. The notice identifies harms in relation to the character and appearance of the area and causes harm to the retail vitality of neighbouring units. As such, the two years requested is excessive to carry out the remedial works.
6. The key question for ground (g) is what is ‘reasonable’. To help ensure that the operation and viability of the existing business is not threatened it seems reasonable to allow for some further time for the works to be carried out. In light of the above, a 7-month period for compliance would strike a more reasonable and proportionate balance to comply with the notice. I shall therefore extend the period from 4 to 7 months for compliance with the notice.
7. The appeal succeeds on ground (g), and I shall vary the notice accordingly.

Conclusion

8. For the reasons given above I conclude that ground (g) appeal succeeds. I shall uphold the enforcement notice with corrections and variations.

R Satheesan

INSPECTOR