



Appeal Decision

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 2nd April 2025

Appeal Ref: APP/B5480/C/24/3350163

4 Ascension Road, Romford RM5 3RS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Ali Yousaf against an enforcement notice issued by the Council of the London Borough of Havering.
- The notice was issued on 17 July 2024.
- The breach of planning control as alleged in the notice is 'Without planning permission, the addition of an upper rear dormer to the dwelling.'
- The requirements of the notice are
 1. Demolish the upper rear dormer shown as edged red in photo LBH1 attached AND
 2. Remove all other debris, rubbish or other materials accumulated as a result of taking step 1 above
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (the Act) (as amended).

Decision

1. It is directed that the enforcement notice is varied by:
 - (i) the deletion of '*two months*' as the period for compliance with the notice and its substitution with '*four months*.'
2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. The effect of Section 118 of the Levelling Up and Regeneration Act 2023 is to bar an appeal under ground (a) where an enforcement notice was served within two years of the date on which a related application ceased to be under consideration. There is a previous appeal decision dated 7 June 2023¹ which dismissed the part of the appeal that related to the development.
4. There is therefore no ground (a) appeal which is that planning permission should be granted for the matters stated in the notice. I am therefore unable to consider the planning merits of the development or policy considerations as part of this appeal.
5. As the appeal is proceeding on the limited grounds of (f) and (g), I am able to proceed to determine the appeal based upon the evidence before me without a site visit. I note that the appellant is aggrieved that he has been unable to pursue ground (a) as part of this appeal but the absence of a ground (a) appeal is not a reason to need a site visit.

¹ APP/B5480/D/23/3314219

The appeal under ground (f)

6. Section 174(2)(f) of the Act states that an appeal may be made on the ground that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. As the requirements relate to removing the upper dormer and removing debris after removal, the purpose of the notice is to remedy the breach of planning control.
7. The appellant has suggested that the wording of the requirements be revised to allow the dormer to be modified to reduce its width and to install windows that align with the original dormer as a lesser step to reduce 'the perceived harm.' The appellant referred to this option being achievable as a condition under ground (a) or under ground (f). However, what is being proposed can only be considered under ground (a) as it is a request for planning permission for an alternative development which requires an assessment of planning merits.
8. There is no ground (a) appeal and I am unable to assess the planning merits of an alternative proposal under ground (f). An appeal under ground (f) is limited to consideration of whether the requirements of the notice exceed what is necessary having regard to the purpose of the notice which in the case is to remedy the breach of planning control.
9. The appellant has also referred to the development being amended to comply with permitted development rights. However, permitted development rights were removed and have not been reinstated. I note that the appellant considers that demolition is a waste of resources. However, as the purpose of the notice is to remedy the breach, requiring demolition is not excessive and the ground (f) appeal must fail.

The appeal under ground (g)

10. An appeal under ground (g) relates to the period for compliance which is 2 months. The appellant refers to family circumstances, needing time to raise finance and to find a builder to carry out the necessary works and is asking for a 6 months compliance period. It is necessary for me to balance the public interest in achieving compliance with the notice with the matters raised by the appellant.
11. On balance, I do consider that 2 months is a short period particularly to instruct a competent contractor. However, 6 months is excessive given the extent of the work even allowing for time to appoint a contractor. I will however vary the compliance period to 4 months which also allows an extended period to arrange finances and to make suitable arrangements for family. The appeal under ground (g) succeeds to that limited extent.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

E Griffin

INSPECTOR