



Appeal Decisions

Site visit made on 20 March 2025

by **Andy Harwood CMS MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 June 2025

Appeal Refs: APP/V5570/C/24/3339497 & 3339498

65 Westbourne Road, Islington, London N7 8AD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeals are made by Mr Plamen Ivanov (3339497) and Mrs Nataliya Ivanova (3339498) against an enforcement notice issued by the Council of the London Borough of Islington.
 - The notice was issued on 11 October 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of wooden boundary fence panels, supporting posts and gate to the frontage of the property.
 - The requirements of the notice are to: Remove the wooden boundary fence panels, gate, supporting posts, fixings and brackets from the frontage of the property. Remove all the resulting associated waste materials from the land thereafter.
 - The period for compliance with the requirement is: Two (2) 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 (as amended).
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Decision

1. It is directed that the enforcement notice is varied by: the deletion at Schedule 5 of the notice, of “Two (2) months” and its substitution with “Six (6) months”, as the period for compliance. Subject to the variation, the enforcement notice is upheld.

Preliminary Matters

2. I carried out an unaccompanied site visit looking at the site from surrounding public footways.
3. Although some of the appellants’ submissions relate to the merits of the development and their need for it to be retained, a fee was not paid for an appeal under ground (a) and the deemed planning application. I cannot therefore consider the planning merits of retaining the structure. There is also no dispute that what has been alleged has taken place and requires planning permission.

The Appeal on ground (f)

4. The appeal on this ground is that the steps required exceed what is necessary to achieve the purpose of the notice. The purposes for enforcement notices are set out in s173(4)(a) and (b) of the Act. The notice requires the removal of the unauthorised development in its entirety and does not allow for the retention of the development at a lower level. As such the notice is seeking remedying the breach by restoring the land to its condition before the breach took place which relates to s173(4)(a).
5. The dwelling at the appeal site has its main door to the side which faces onto Westbourne Road. The short rear-garden and rear access to the site is onto the footway within the side road of Vulcan Way. The fence and gate screen the

ground floor of the back of the dwelling and enclose the rear garden. The considerations of the effects of this on security and privacy are matters that I cannot consider given that there is not an appeal on ground (a).

6. The requirements of the notice are to completely remove all of the fence and gate including the supporting posts, fixings and brackets. I have not been given an alternative proposal that would achieve the purpose of the notice.
7. From what I could see, the fence is one complete structure and as such it is not possible to retrospectively amend it to comply with the permitted development rights under the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) which are specified in Schedule 2, Part 2, Class A for, amongst other things, the erection of walls and other means of enclosure. As such I cannot allow the appeal under this ground. However, an enforcement notice cannot interfere with those permitted development rights and the appellant may be able re-erect part of what has been constructed in compliance with those limitations albeit after the notice is complied with. The Council may be able to advise the appellant on what they would consider would be permitted under those provisions if they do exist for this property.
8. In these circumstances, given the above the appeal on ground (f) must fail.

The appeal on Ground (g)

9. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant asks that the time for compliance is extended from 2 months to 1.5 – 2 years.
10. In these matters I need to find a reasonable and proportionate balance between the harm caused by the unauthorised development and the needs of the appellants. As I have said above, I do not have an appeal under ground (a) before me and therefore have to take the harm as alleged on the face of the notice without reviewing that myself. There may however be an alternative solution that could help the appellant resolve some of their issues such as the permitted development rights that I mention above. A 6-month period for compliance would enable the appellant to take advice and discuss what may be possible to construct under permitted development rights, with the Council. That period would strike a more reasonable and proportionate balance.
11. The appeal on ground (g) is allowed.

Conclusion

12. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Andy Harwood

INSPECTOR