



Appeal Decision

Site visit made on 4 March 2025

by **J Moss BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 June 2025

Appeal Ref: APP/X5210/C/24/3354039

Flat B, 17 Nassington Road, London NW3 2TX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Susan Elizabeth Bennett against an enforcement notice issued by the Council of the London Borough of Camden.
- The notice was issued on 17 September 2024.
- The breach of planning control as alleged in the notice is, without planning permission, the installation of a uPVC door in the rear elevation at 1st floor level.
- The requirements of the notice are to:
 1. Permanently remove the uPCV door installed at rear 1st floor level; and
 2. Install a timber door and julliete balcony in accordance with the planning permission granted on 10th June 2024 under reference 2024/0039/P and that shown on approved drawing number P76.NAS_PL 09; or
 3. Reinstate a timber sash window to match the proportions and design of the one previously in place prior to the unauthorised works taking place; and
 4. Make good any damage caused as a result of the above works.
- The period for compliance with the requirements is three months of the notice taking effect.
- 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).

Summary Decision: The appeal is allowed in part, but is otherwise dismissed. The notice is varied and upheld in the terms set out in the formal decision

Ground (f)

1. An appeal on ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, 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. The purpose of the enforcement notice in this case is to remedy the breach of planning control alleged. For the appellant to succeed on ground (f), I must be satisfied that the steps required to comply with the notice exceed what is necessary to remedy the breach of planning control.
2. The appellant's ground (f) appeal is briefly stated. Her case, as I have understood it, is that a requirement to replace the UPVC door that has been installed with a timber door or a timber sash window, exceeds what is necessary to remedy the breach because the UPVC door that has been installed did not itself replace a timber window or door. There is no suggestion that the first requirement, to remove the UPVC door that has been installed, or the requirement to make good any damage resulting from the steps specified in the notice exceed what is necessary to remedy the breach. Accordingly, the appellant's case is in respect of the second and third requirements only.

3. After the removal of the UPVC door, the notice gives the recipient one of two options. The first is to carry out the development for which permission has been granted (Council reference 2024/0039/P) and the second is to 'reinstate a timber sash window'.
4. With regard to the second of the two options, as I note above, the purpose of the enforcement notice is to remedy the breach of planning control. Where the purpose is to remedy the breach, in accordance with section 173(4)(a) of The Town and Country Planning Act 1990 as amended (the 1990 Act), this can be achieved by restoring the land to its condition before the breach took place.
5. There is no suggestion that what existed prior to the installation of the UPVC door was a sash window. The 'existing' plan (drawing number P76.NAS PL 03), which is the subject of the 2024/0039/P permission, indicated that the 'existing' window to be replaced was a sash window. The Council have provided a previous photograph of the rear elevation of the property, showing that elevation before the works subject of the notice were carried out. Whilst taken at a distance, I can agree that the former window had proportions and a design similar to that of the other first floor window in the rear elevation, which I observed on the site visit. The requirement to match the proportions and design of this window would not, therefore, exceed what is necessary to remedy the breach.
6. However, the above-mentioned plan indicates that the existing window was UPVC, which accords with the appellant's case. Furthermore, the Council do not say that it had observed the former window prior to its removal, such that it could confirm that the former window was of timber construction. Indeed, the Council rely only on the photograph and acknowledge that 'the materials are difficult to distinguish'.
7. In view of the above, I am unable to conclude that it is more likely than not that the materials of the former window were timber. Accordingly, having regard to the provisions of section 173(4)(a) of the 1990 Act, I cannot be satisfied the a requirement to replace the UPVC doors with a **timber** sash window would restore the land to its condition before the breach took place. For this reason, the requirement exceeds what is necessary to remedy the breach.
8. Despite this conclusion, it is open to me to vary the terms of the enforcement notice, in accordance with my powers set out in section 176(1)(b) of the 1990 Act, provided no injustice would be caused. Were I to remove from the second option the word 'timber', the remaining requirement would achieve the purpose of restoring the land to its condition before the breach took place. Such a variation to the notice would not, in my judgment, cause injustice to any party, particularly as it would make this requirement less onerous.
9. Turning to the first option, having regard to the provisions of section 173(4)(a) of the 1990 Act, the notice need only require the replacement the UPVC doors with a sash window to match the proportions and design of the one previously in place prior to the unauthorised works taking place. It was not necessary for the Council to include the first option set out in requirement 2.
10. However, by including the first option in the requirements of the notice, the Council have acknowledged that the 2024/0039/P planning permission is an extant permission, and one that can be implemented by the appellant, should they wish to do so. Accordingly, the first option (i.e. requirement 2), as an alternative to the second option of restoring the land to its condition before the breach took place

(i.e. requirement 3), is a reasonable approach in this case. It would remedy the breach and allow for the permitted development to take place.

11. Whilst I note the appellant's objection to the first option is to the requirement to use timber in the materials of the door, I cannot find this to be an unnecessary requirement in this case. Permission was only sought and granted for the 'installation of new **timber** framed door' (my emphasis). To allow for the installation of a door using any other type of material would neither comply with the 2024/0039/P planning permission nor restore the land to its condition before the breach took place. For these reasons, I cannot conclude that the first option (i.e. requirement 2) exceeds what is necessary to remedy the breach.
12. In view of my conclusions on requirement 3, the ground (f) appeal succeeds in part and I shall vary the notice as indicated.

Ground (g)

13. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The notice specifies a period of 3 months of it taking effect.
14. At the site visit I noted the coils of razor wire installed on the flat roof of Flat A at No 17. Its presence, so close to the UPVC doors, would make compliance with the requirements of the notice both difficult and dangerous. I can, therefore, agree with the appellant on this matter.
15. However, the appeals against the enforcement notice issued in respect of the installation of the razor wire¹ have been considered by me concurrently with this appeal. The decisions on those appeals will be issued at the same time as this decision. My decision on those appeals will mean that the notice will be upheld. The notice gives a period of one month for compliance. It is, therefore, reasonable to extend the period for compliance with the notice subject of this appeal by one month, so as to allow for compliance with the requirements of the notice following the removal of the razor wire.
16. Accordingly, the appeal on ground (g) should succeed. I will vary the notice to allow a period of four months for compliance.

Conclusion

17. For the reasons given above, I conclude that the requirements of the notice are, in part, excessive to remedy the breach of planning control and 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 grounds (f) and (g) succeed to that extent.

Formal Decision

18. It is directed that the enforcement notice is varied by:
 - the deletion from the third requirement of part 5 of the word "timber"; and
 - the deletion of "THREE (3) months" and its substitution with "FOUR (4) months" as the period for compliance.

¹ Appeals reference APP/X5210/C/23/3334398 and APP/X5210/C/23/3334399

19. Subject to the variations, the appeal is dismissed and the enforcement notice is upheld.

J Moss

INSPECTOR