



Appeal Decision

Site visit made on 10 June 2025

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 9 JULY 2025

Appeal Ref: APP/N5660/C/23/3319940

Ground Floor Unit, 99 Streatham Hill, LONDON, SW2 4UD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Mohamed Chamass against an enforcement notice issued by the Council of the London Borough of Lambeth.
 - The notice was issued on 16 March 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, the unauthorised installation of a white painted metal extract flue up the side of the 4-storey rear elevation ('the unauthorised metal flue').
 - The requirements of the notice are: a) Remove the unauthorised metal flue in its entirety (including all associated ducting, wiring brackets, fixtures and fittings) from the premises and make good the rear elevation as existed prior to the breach of planning control; and b) Remove all associated waste and debris resulting from compliance with the above requirement, from the premises.
 - The period for compliance with the requirements: Three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f), (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 of 'Three months' and its substitution with 'Five (5) months' as the time for compliance.
2. Subject to the variation the appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (f)

3. This ground of appeal is that the requirements of the notice exceed what is necessary.
4. S.173 of the 1990 Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first is to remedy the breach of planning control which has occurred; the second is to remedy an injury to amenity which has been caused by the breach. The fact that the notice in this case requires removal of the flue and making good of the affected elevation suggests that its purpose is to remedy the breach of planning control and these steps are not excessive to achieve that purpose.
5. The appellant under this ground makes reference to matters of planning merit with the implication that concerns could be overcome by the imposition of conditions. However, the appellant made no appeal on ground (a) and so there is no deemed planning application ('DPA'). When there is no DPA, the power to vary the notice so that it under-enforces is limited as there is no scope for conditions to be imposed in the absence of a DPA. As such, in these circumstances planning considerations

cannot be introduced in an appeal on ground (f). Accordingly, the ground (f) appeal must fail in this case.

The appeal on ground (g)

6. The appeal on ground (g) is that the period for compliance with the notice (3 months) falls short of what is reasonable.
7. The appellant makes reference under this ground to the property having been vacant in recent years but offers no basis as to why the compliance period is not reasonable in the circumstances, nor suggests an alternative period.
8. That said, correspondence was received during the course of the appeal from the new tenant of the appeal property who apparently was not aware of the enforcement notice when taking the lease of the property. In my view, it seems fair in the circumstances to extend the period for compliance in order to enable the new tenant to seek an alternative solution which may require permission of some kind. An extension of two months would strike a fair balance between ensuring fairly swift compliance with the notice while also allowing the new occupant a reasonable time frame in which to explore alternative solutions.
9. The ground (g) appeal succeeds to this limited extent.

Conclusion

10. For the reasons given above, I conclude that the requirements of the notice are not excessive to remedy the breach of planning control but 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 (f) fails and the ground (g) appeal succeeds to the extent stated.

V Bond

INSPECTOR