



Appeal Decision

Site visit made on 15 July 2025

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Appeal Ref: APP/X5990/C/24/3345625

1 Lyndhurst Court, 36-38 Finchley Road, London NW8 6EU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Angela Wilson against an enforcement notice issued by the City of Westminster Council.
 - The notice was issued on 1 May 2024.
 - The breach of planning control as alleged in the notice is without the requisite planning permission and within the last 4 years the installation of UPVC framed casement windows together with a UPVC framed French window and door at ground floor level on the north, east and south
 - elevations of the Property, as shown labelled '1', '2', '5', '6', '7' and '11', and outlined in red in Photographs A, C and E ("the Unauthorised Works").
 - The requirements of the notice are to:
 - 1) Remove the two UPVC framed casement windows installed at ground floor level on the north elevation of the Property, shown labelled '1' and '2' and outlined in red in 'Photograph A' attached;
 - 2) Reinstate two dark grey painted, timber framed casement windows at ground floor level on the north elevation of the Property, to match the design, materials and profile of the existing first floor level windows of the building, shown labelled '3' and '4' and outlined in yellow in 'Photograph B' attached;
 - 3) Remove the small UPVC framed casement window (labelled 5) and UPVC framed bay window (labelled 6) together with the UPVC framed French window and door (labelled 7) installed at ground floor level on the east elevation of the Property, shown outlined in red in 'Photograph C' attached;
 - 4) Reinstate: a) A small dark grey painted, timber framed casement window; and b) A dark grey painted, timber framed bay window with inset aluminium framed horizontal sliding window; and c) A brown painted, timber framed French window with inset aluminium framed horizontal sliding window, together with a brown painted, timber framed door; at ground floor level on the east elevation of the Property, to match the design, materials and profile of the existing first floor level windows and door of the building, labelled '8', '9' and '10', and parts of which are shown outlined in yellow in 'Photograph D' attached;
 - 5) Remove the UPVC framed casement window installed at ground floor level on the south elevation of the Property, shown labelled '11' and outlined in red in 'Photograph E' attached;
 - 6) Reinstate a dark grey painted, timber framed casement window at ground floor level on the south elevation of the Property, to match the design, materials and profile of the existing first floor level window of the building, shown labelled '12' and outlined in yellow in 'Photograph F' attached; and
 - 7) Remove from the Property all materials and debris arising from compliance with Steps 1), 2), 3), 4), 5) and 6).
 - The period for compliance with the requirements is: 9 months.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).
-

Formal Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. An appeal on ground (a) was also made. However, where an enforcement notice has been issued after 25 April 2024, ground (a) is barred if the requirements of s174(2A) of the 1990 Act are met. Namely, if the enforcement notice was issued: during the time allowed for determining a related retrospective planning application; or within two years of the date on which the related application ceased to be under consideration. The requirements of s174(2A) of the 1990 Act have been met in this case and the appeal has therefore proceeded on ground (f) only.

Appeal on ground (f)

3. An appeal on ground (f) is brought on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act sets out the two purposes which an enforcement notice may seek to achieve. The first is to remedy the breach of planning control by making the development comply with the terms of any planning permission which has been granted in respect of the land, by discontinuing any use of the land, or by restoring the land to its condition before the breach took place. The second is to remedy any injury to amenity which has been caused by the breach.
4. The breach of planning control relates to, without planning permission, the installation of UPVC framed casement windows together with a UPVC framed French window and door at the appeal property. The notice does not expressly state which of the purposes of s173(4) it seeks to achieve. However, the requirements of the notice are to remove the windows and door in place at the appeal property and to reinstate windows and a door that match those present at the other apartments in the building, rather than restoring the windows and door to those present prior to the breach. I cannot be certain on the information before me that this would fully restore the site to its condition prior to the breach taking place, such that, I consider that the purpose of the notice is to remedy any injury to amenity caused by the breach.
5. The appellant alleges that the requirements of the notice are excessive and that lesser steps could have been taken, stating that the windows and door could be painted. Details of a paint colour have been provided, and I observed a sample that had been applied during my site visit. However, such steps would essentially be an obvious alternative which the appellant submits would overcome the planning harm.
6. In the absence of a ground (a) appeal it is not open to me to consider the planning merits of the suggested alternative and whether such an alternative would remedy the injury to amenity arising from the breach. The appellant does not argue that there are any further lesser steps that would remedy the injury to amenity. To my mind, there are no steps other than the requirement to reinstate windows and doors which match the remainder of the building which would remedy the injury to amenity. The appeal on ground (f) therefore fails.

Conclusion

7. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

C Rafferty INSPECTOR