



Appeal Decision

Site visit not required

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2025

Appeal Ref: APP/C5690/C/23/3334339

Land at 53 Leyland Road, London, SE12 8DW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr B Bahra against an enforcement notice issued by the Council of the London Borough of Lewisham.
 - The notice was issued on 1 November 2023.
 - The breach of planning control as alleged in the notice is: Unauthorised erection of a first-floor rear extension.
 - The requirements of the notice are to:
 1. Remove the unauthorised first-floor rear extension in its entirety, returning the first floor to its original size, scale and appearance.
 2. Make good all damage resulting from the compliance with the requirements of this notice.
 3. Remove all materials, debris, waste and equipment resulting from compliance with the above requirements of this notice from the land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Preliminary Matters

2. No site visit was necessary as the appeal can be determined based on the submitted evidence. There were no objections from the parties to this approach.
3. While I note the third party representations which refer to the visual effects of the development and its impact on the neighbours' living conditions, I am unable to take the planning merits of the development into account as there is no ground (a) appeal and deemed planning application before me.

Appeal on Ground (c)

4. On ground (c), the onus is on the appellant to demonstrate on the balance of probability that the matters stated in the enforcement notice do not constitute a breach of planning control.
5. The notice relates to a first floor rear extension at 53 Leyland Road. The extension comprises operational development within the meaning of section 55 of the 1990 Act for which section 57 indicates planning permission is required. There is no dispute between the parties that the extension is not permitted development under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, and I have no reason to find otherwise based on the evidence before me.

6. There is an extensive planning history relating to this property which includes approvals for various extensions and alterations. An application for a first floor rear extension was refused by the Council and subsequently dismissed on appeal on 28 September 2023¹. That refused scheme appears to correspond to the extension the subject of the notice. The alleged breach of planning control and the associated requirements at section 5 of the notice relate solely to this extension and not subsequent developments at the property.
7. The appellant indicates that the development benefits from planning permission, having regard to the subsequent application for “Part-retrospective permission for the construction of a first floor extension to the rear elevation and the infill of the existing ground floor extensions”², which was approved by the Council on 28 November 2023 and later implemented on site.
8. Ground (c) is worded in the present tense: ‘...do not constitute a breach...’ An appellant may therefore rely upon matters occurring since the date of issue of the notice to show that, at the time of the decision, what was alleged does not amount to a breach of planning control. However, it is crucial in such cases that the development is that which was alleged when the notice was issued and not some subsequent altered development.
9. The evidence before me including photographs of the property taken towards the end of October 2023 shortly before the date of issue of the notice, show the first floor extension the subject of the notice to have a part pitched, part flat roof structure. The first floor extension subsequently approved in November 2023 has been finished with a flat roof. The alteration to the roof design leads me to conclude that it is a materially different scheme. The Council says the latter was not substantially implemented until 15 December 2023 which post-dates the development the subject of the notice. I therefore find that the development does not benefit from planning permission.
10. I conclude on the balance of probability that the unauthorised development alleged by the notice constitutes a breach of planning control. Accordingly, the appeal on ground (c) must fail.

Conclusion

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

M Ollerenshaw

INSPECTOR

¹ Appeal Ref. APP/C5690/D/23/3324642

² Council Ref. DC/23/133308