
Appeal Decision

by D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC

an Inspector appointed by the Secretary of State

Decision date: 12th September 2025

Appeal Ref: APP/E5330/C/24/3346653

Land at 14 Earlshall Road, Eltham, London SE9 1PT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act).
 - The appeal is made by Ms Andaleeb Chowdhary against an enforcement notice (EN) issued by Royal Borough of Greenwich.
 - The EN was issued on 15 May 2024.
 - The breach of planning control as alleged in the EN is: without planning permission, the unauthorised construction of a glazed veranda above the patio area to the rear garden of 14 Earlshall Road.
 - The requirements of the EN are:
 - Remove the Unauthorised Development; and
 - Remove all materials, rubble and debris spoil from the Property generated as a result of the above requirement to an authorised place of disposal.
 - The period for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the 1990 Act.
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Decision

1. It is directed that the enforcement notice is varied by:
 - the deletion of all the wording of the requirements and their substitution with the wording:

5.1 **Either** (a) demolish the entire Unauthorised Development **Or** (b) modify the glazed veranda to comply with the terms of planning permission (ref: 24/1957/HD) dated 25 November 2024, including the conditions subject to which that permission was granted, **Or** (c) modify and remove the glazed veranda to comply with the terms of planning permission (ref: 24/1959/HD) dated 26 November 2024, including the conditions subject to which that permission was granted.

5.2 Remove from the Property all materials and debris arising from compliance with the aforementioned requirements of the notice.

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

The ground (f) appeal

2. Section 173(4) of the 1990 Act sets out the purposes which an EN may seek to achieve. They are either (a) remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach. The appellant's ground (f) appeal relates to alternative schemes that were submitted as planning applications to the Council after the EN was issued.
3. The EN does not specify which of the two purposes it seeks to achieve. Nonetheless, in requiring the demolition of all the unauthorised development it is evident that the Council seeks to remedy the breach. As a result, and in the absence of an appeal on ground (a) as set out in section 174(2) of the 1990 Act

and a deemed planning application, the power available to me under section 176(1) of that Act only relates to whether the requirements exceed what is necessary to remedy the breach.

4. However, in cases where there is an extant planning permission the breach of planning control could also be resolved by the development being altered to comply with the terms and conditions of that planning permission. In this case planning permissions¹ for '*removal of existing rear extension and glazed veranda within rear garden and construction of a new single storey rear extension and associated external works and landscaping*' and '*Replacement of the existing glazed veranda/overhang within the rear garden with a glass pergola structure in the rear garden and associated external works and landscaping*' were approved in November 2024. There is no dispute that those planning permissions are extant. Given the location of the developments proposed in those permissions, only one of them would be capable of being built.
5. There would also be less cost and disruption than total demolition, as the appellant would be able to modify the development by removing/modifying the parts of the development that do not accord with one or other of the planning permissions. In light of the extant planning permissions which the Council granted and would have been subject to public consultation, I consider that complete demolition of the development is therefore excessive and unnecessary.
6. Consequently, under section 176(b) of the 1990 Act, I will vary the EN to require either the complete demolition of the development, or that the development shall be altered to comply with the terms and conditions of one or other of the planning permissions. The appellant therefore has the choice of which course of action to take, and I can carry out the variations without injustice to the parties. The appeal on ground (f) therefore succeeds to this extent.

The ground (g) appeal

7. A ground (g) appeal is that any period specified in the EN in accordance with section 173(9) of the 1990 Act falls short of what should reasonably be allowed. The appellant has requested that the time for compliance be extended from 3 months to 6 months to instruct a contractor to undertake the necessary remedial works. However, no further detail has been submitted as to why 6 months is required. Moreover, given the variations to the requirements the appellant has the choice of whether to demolish or modify the development. Therefore, in my judgement the time limit attached to the requirements of the EN is reasonable. It follows that the appeal on ground (g) fails.

Conclusion

8. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control. I shall vary the enforcement notice prior to upholding it. The appeal on ground (f) succeeds to that extent. The appeal on ground (g) fails.

D Boffin

INSPECTOR

¹ Ref nos: 24/1957/HD and 24/1959/HD