Planning Inspectorate

Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 16 October 2025

Appeal Ref: APP/N5660/C/24/3350822
2-3 Clapham Common North Side, London SW4 0QL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Akelius UK Fourteen Ltd against an enforcement notice issued by the Council of the London Borough of Lambeth.
- The notice was issued on 17 July 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the installation of two air-conditioning units at the northern end of the passageway to the rear of the premises ("the two unauthorised air-conditioning units").
- The requirements of the notice are: (a) Remove the two unauthorised air-conditioning units (and all associated fixtures and fittings, wiring and piping) from the premises and reinstate the land as existed prior to the breach of planning control; (b) Remove all associated waste and debris resulting from compliance with the above steps, from the premises.
- The period for compliance with the requirements is: 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).

Decision

1. I direct that the word “Three” at section 6 of the notice should be deleted and replaced with the word “Six”. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. There is no scope in grounds (f) and (g) appeals to consider issues of planning merit such as the effect of the development on the living conditions of neighbours. Therefore, despite evidence about this, it is not relevant to the outcome of the appeal. Consequently, neither of the grounds of appeal require a visual assessment of the development. Furthermore, there is no ground (a) appeal meaning that the outcome of the appeal cannot take account of planning policies or the National Planning Policy Framework or any planning history of the site. On this basis, I was able to determine the appeal without visiting the site. The cases of the appeal parties have not been prejudiced by this course of action.

The Notice

3. S173(10) of the 1990 Act sets out that an enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under s172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under s174. Whilst, in this case the explanatory note contained references to incorrect legislation, there is no evidence, other than drawing attention to the errors, that this misled the recipient of the notice to the extent that they were confused or unsure about whether they could appeal, or when and how to appeal to submit a valid appeal. There is also nothing to show that the appeal process itself or the presentation of

evidence was hindered in any way. Therefore, whilst regrettable, the appellant has not suffered injustice or prejudice, and the explanatory note errors have not nullified the notice.

Ground (f)

4. An appeal on this ground is based on considering whether the steps required by the notice to be taken 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 appeal outcome is not influenced by considering alternative schemes or measures to ameliorate the impact of the development, particularly as there is no associated deemed planning application to consider.

5. The notice requires the unauthorised development to be removed from the site entirely, including all fixtures and fittings, and for the land to be reinstated as previously existed before the units were installed. The purpose of the notice therefore falls squarely under s173(4)(a) of the 1990 Act, which is to remedy the breach of planning control by restoring the land back to its condition before the breach took place. The requirements do no more and no less than seek to fulfil this purpose. Consequently, the steps required by the notice to be taken are not excessive. The ground (f) appeal therefore fails.

Ground (g)

6. Three months is not an unreasonable time in which to arrange for and remove the development. The 18 months requested by the appellant fails, in my view, to have regard to the ongoing harm to the amenity of local residents while the units continue to operate. I do, however, recognise that a little more time to engage with the Council about possible remedial works or to progress the submission of a planning application, would be sensible. I shall therefore extend the compliance period to six months. To this extent, the ground (g) appeal succeeds.

7. Although not in my power, the Council may waive or relax any requirements in an enforcement notice. In particular, it may extend the compliance period. That may be a useful tool if both parties in the future could see an achievable way forward that more time would allow for a positive outcome.

Conclusion

8. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

Gareth Symons

INSPECTOR