

Appeal Decision

Site Visit made on 6 January 2026

by J Whitfield BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2026

Appeal Ref: APP/V5570/C/24/3351223

Land at Flat B, 234 Brecknock Road N19 5BQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Alistair Cormack against an enforcement notice issued by the Council of the London Borough of Islington (the LPA).
 - The enforcement notice was issued on 24 July 2024.
 - The breach of planning control as alleged in the notice is failure to comply with a condition imposed on a planning permission ref P2021/1096/FUL granted on 29 July 2021.
 - The development to which the permission relates is: the creation of a roof terrace on existing rear outrigger at ground floor level with new stairs and associated alteration to the rear garden.
 - Condition 2 of the planning permission stated as follows:
The development hereby approved shall be carried out in accordance with the following approved plans:
Plan Nos: Location Plan, Proposed Block Plans (27/07/20_RevA), Proposed Lower Ground Floor Plan (27/02/21_RevA), Proposed Upper Ground Floor Plan (18/12/20_RevA), Proposed Rear Elevation (27/02/21_RevA), Proposed Side Elevation (27/02/21_RevA), Proposed Section AA (27/02/21_RevA).
 - It appears to the council that condition 2 has not been complied with, as the position of the garden metal steps and width of steps have been installed incorrectly which are both not in accordance with the appropriate plans.
 - The requirements of the notice are to:
 1. Remove the metal steps and reposition the metal steps and reduced the width of the metal steps to correct width as shown in the approved drawings to planning permission ref: P2021/1096/FUL and drawing numbers Proposed Block Plans (27/07/20_RevA), Proposed Lower Ground Floor Plan (27/02/21_RevA), Proposed Upper Ground Floor Plan (18/12/20_RevA), Proposed Rear Elevation (27/02/21_RevA), Proposed Side Elevation (27/02/21_RevA), Proposed Section AA (27/02/21_RevA).
 2. Replace the resulting gap in the metal balustrading with matching railings as a result of the movement of the metal stairs to the correct position for access to the garden level of the premises in accordance with the approved drawing of Planning permission P2021/1096/FUL.
 3. Remove all materials, rubbish, plant and machinery in connection with compliance with Steps 1 and 2.
 - The period for compliance with the requirements is: 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by:
 - the deletion of the word “reduced” and its replacement with the word “reduce” in Section 4(1) of the notice; and,
 - the insertion of the word “the” between the words “to” and “correct” in Section 4(1) of the notice.
2. Subject to the corrections, the appeal is dismissed and the enforcement notice is upheld.

The Enforcement Notice

3. S176(1) of the Act affords me the power to correct any defect, error or misdescription in an enforcement notice. In this instance, there is a grammatically incorrect use of the word “reduced” in Schedule 4(1) of the notice. It ought to say “reduce”. Likewise, “the” should precede the word “correct” in the same section. I will correct the errors accordingly and can do so without injustice to the appellant or the LPA.

Appeal on ground (f)

4. An appeal on ground (f) is brought on the basis that 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 the matters stated in the notice as constituting a breach of planning control, or as the case may be, remedy any injury to amenity which has been caused by such breach.
5. S173(3) of the Act states that a notice shall specify the steps which are required to be taken in order to achieve, wholly or partly, any of the purposes set out in S173(4) of the Act. Those purposes are (a) remedying the breach of planning control; or (b) remedying any injury to amenity which has been caused by the breach.
6. In this instance, the enforcement notice does state that the requirements are to remedy the breach of planning control. Indeed, the notice is targeted against a failure to comply with condition 2 of the 2021 planning permission¹ as the steps have not been installed in accordance with the approved plans and the notice requires the metal steps to be removed, reduced in width and repositioned so that they accord with the approved plans subject of condition 2 of the 2021 permission. The notice also requires the resulting gap to be infilled with matching metal balustrading in accordance with the approved plans. As a result, I am satisfied that the purpose of the notice is to remedy the breach of planning control by making the development comply with the terms, including the conditions and limitations, of a planning permission which has been granted in respect of the Land.
7. The appellant’s case sets out the circumstances which led to the breach of planning control occurring and the reasons why, having regard to matters of drainage and the neighbouring property, the staircase was built wider and located in a different position to that approved. Moreover, the appellant’s case sets out why, in their view, the requirement to comply with the approved plans is excessive because the impacts on the occupier of the neighbouring of the breach are of equal or less harm than the development approved by the 2019 permission.
8. However, as no appeal on ground (a) of S174 of the Act has been duly brought, it is not open to me to consider the planning merits of the breach.
9. Furthermore, since the breach of planning control comprises a breach of condition 2 of the 2019 permission, which the appellant does not dispute has occurred, and the notice seeks to secure compliance with condition 2 of the 2019 permission, the requirements of the notice are not excessive. Additionally, any lesser step than requiring compliance with condition 2 of the 2019 permission would not remedy the breach of planning control.

¹ Planning Permission LPA Ref: P2021/1096/FUL

10. I note the appellant's concerns regarding the LPA's decision to proceed to issuing an enforcement notice without, in the appellant's view, sufficient discussion with them. I also note the alleged behaviour of the LPA's officers. However, the question of expediency is not a matter for my consideration at this appeal, nor indeed is the conduct of the LPA. I note a compliance period of four months would afford the appellant and the LPA some time to engage with one another in the event a solution is achievable. However, I conclude that the steps required by the notice to be taken do not exceed what is necessary to remedy any breach of planning control which may be constituted by the matters stated in the notice as constituting a breach of planning control.
11. The appeal on ground (f) therefore fails.

Conclusion

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

J Whitfield

INSPECTOR