



Appeal Decisions

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 30 March 2026

Appeal A Ref: APP/N5090/C/24/3338800

Appeal B Ref: APP/N5090/C/24/3338801

3 College Terrace, London N3 1DT

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Oren Yefet and Appeal B is made by Elisheva Rosa Kissin against an enforcement notice issued by the Council of the London Borough of Barnet.
- The notice was issued on 5 January 2024.
- The breach of planning control as alleged in the notice is 'Without planning permission, the erection of railings on the flat roof of the single storey rear extension of the building.'
- The requirements of the notice are
 1. Permanently remove the railings from the perimeter of the flat roof.
 2. Permanently remove all constituent materials resulting from the works in 1 above from the property
- The period for compliance with the requirements is 2 months.
- Appeals A and B are proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 ('the Act') (as amended).

Decisions

Appeals A and B

1. It is directed that the enforcement notice is varied by
 - (i) the deletion of the words '2 months' and its substitution with '3 months' as the period for compliance.
2. Subject to the variation, the appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

3. As the appeal is proceeding on the limited grounds of (c), (f) and (g), I am satisfied that I can proceed to determine the appeal based upon the evidence before me without a site visit. The parties were informed that a site visit was not necessary and were given the opportunity to comment if they wished to do so. No comments were received from either party.
4. There is no ground (a) appeal which is that planning permission should be granted for the matters stated in the notice. I am therefore unable to consider the planning merits of the development, comparisons with other nearby properties, the Conservation Area designation, any policy considerations or any third party comment which refers to planning matters.

5. The appellants have questioned whether it was expedient for the Council to issue an enforcement notice. However, the courts have held that any challenge as to whether it was expedient to serve a notice has to be made to the courts not through the enforcement appeal process. Whilst, the appellants have also referred to a lack of reasons for serving the notice, the reasons are set out in paragraph 4.
6. Two spellings have been provided for the first name of the appellant for Appeal B – Elisheva and Ellesheva. I have therefore used the spelling provided in the appeal form.

An appeal under ground (c)

7. An appeal under ground (c) is that the matter alleged does not constitute a breach of planning control. As this is a legal ground of appeal, the burden of proof is on the appellants to make out their case on a balance of probabilities.
8. Section 57 of the Act states that planning permission is required for the carrying out of any development of land. Section 55 of the Act includes in the definition of the word 'development' the carrying out of 'building, engineering, mining or other operations in, on, over or under land'. A building is defined in Section 336(1) of the Act as including 'any structure or erection and any part of a building'. The railings are a structure which have been erected on the roof as a permanent addition. The railings fall within the definition of 'development' which requires planning permission.
9. The appellants indicate that they erected the railings after a telephone call with the Council as they understood that there was 'no issue with a handrail.' However, it is not the case that a 'verbal agreement' which is legally binding has been made with the Council which means that a breach of planning control has not occurred. The limitations of informal advice are clearly set out in the Council's emails.
10. Development has taken place without express planning permission or reliance upon permitted development rights. A breach of planning control has therefore occurred. The appeal under ground (c) therefore fails.

The appeal under ground (f)

11. Section 174(2)(f) of the Act states that an appeal may be made on the ground 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 those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. As the requirements relate to removing railings and removing debris after removal, the purpose of the notice is to remedy the breach of planning control.
12. An appeal under ground (f) is limited to consideration of whether the requirements of the notice exceed what is necessary having regard to the purpose of the notice which in the case is to remedy the breach of planning control.
13. The appellants have not advanced any alternatives to removal of the railings under this ground. In any event, the extent to which an alternative can be considered under ground (f) when there is no ground (a) appeal is very limited.

14. The requirements set out in the notice including removal of the railings are not excessive when the purpose of the notice is to remedy the breach. The appeal under ground (f) fails.

The appeal under ground (g)

15. An appeal under ground (g) relates to whether the period for compliance which is 2 months is reasonable. In addressing whether the period is reasonable, it is necessary to balance the need for compliance with any reasons given by the appellants for requiring a longer compliance period.
16. The appellants have not commented upon the 2 month period or suggested an alternative period. Nevertheless, there is a ground (g) appeal before me. The requirements are to remove the railings and the resulting materials arising from the removal. The development is not extensive in terms of weight or bulk, but the removal of the railings from the roof will require some planning. I will therefore extend the period of compliance by 1 month to 3 months. The ground (g) appeal succeeds to that limited extent.

Other Matters

17. The documents relied upon by the appellants for the appeal largely focus upon the history of this matter prior to the service of the notice and the decision to take enforcement action. However, any issues that the appellants may have with the Council's conduct need to be addressed directly with the Council as they fall outside the remit of this appeal.
18. The appellants are of the view that the development should be retained and rely upon matters such as fire safety and the need for security. However, there is no application for planning permission before me. I am therefore unable to consider the appellants' reasons for wishing to retain the development as part of this appeal.

Conclusion

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

E Griffin

INSPECTOR