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## Appeal Decision

Site visit made on 18 March 2025

**by Martin Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 19 May 2025**

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### **Appeal Ref: APP/B5480/C/22/3313779**

### **5A Myrtle Road, Romford, RM3 8XS**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
  - The appeal is made by Mr Bogdan Balusi against an enforcement notice issued by the Council of the London Borough of Havering.
  - The notice was issued on 1 December 2022.
  - The breach of planning control as alleged in the notice is
    1. Without planning permission, the construction of a rear extension; and
    2. Without planning permission, the construction of a hard surface in the front curtilage.
  - The requirements of the notice are to:
    - (i) Demolish the rear extension;  
Or
    - (ii) Reduce the depth and height of the rear extension to no more than 3 metres at any point;  
And
    - (iii) Either remove the hard surface to the front OR install drainage and an underground soakaway with a capacity of not less than 1 cubic metre so that all surface water runoff is disposed of within the curtilage of the dwelling;  
And
    - (iv) Remove all other debris, rubbish or other materials accumulated as a result of taking steps (i) to (iii) above.
  - The period for compliance with the requirements is: Three months
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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### **Decision**

1. The enforcement notice is quashed.

### **The Notice – the requirements**

2. The enforcement notice sets out four requirements and within its statement of case the Council state that two options for compliance have been given for each of the breaches that have been alleged. However, on an ordinary reading of the requirements this is not the case.
3. I agree that two options have been provided for the hard surface to the front of the dwelling. This can either be removed or drainage can be installed. These options are clear, and they are contained within requirement (iii) and include the use of “Either” and “or” clearly, within that requirement. However, the same approach has not been taken in respect of the rear extension.
4. Requirement (i) requires the demolition of the extension, there is then an “Or” stated, and requirement (ii) states that the depth and height of the rear extension can be reduced. However, there is no reference to the ‘either/or’ as requirement (iii) states. On reading of the requirements as set out, it could be inferred that the

appellant has to comply with requirement (i) or requirements (ii), (iii) and (iv) i.e., either demolish the extension, or reduce it and then undertake works to the hard surface (be that its removal or installation of drainage). It could be that the appellant chooses to demolish the extension and then could claim to have complied with the requirements of the notice. This is clearly not the intention of the Council, given that it seeks to address the breach in respect of the hard surface also.

5. Section 176(1) of the Act allows for the correction of a notice, provided that this would not cause injustice. In this case, if I were to correct the notice to require either the removal of the extension or its reduction, as well as the removal or amendment of the hard standing, it would indeed cause injustice to the appellant, as it would potentially require the removal of, or works to, more elements than the notice currently does. As such, I am unable to correct the notice, and it should be quashed on the grounds of ambiguity within the requirements.

### **Conclusion**

6. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the requirements necessary to address the alleged breaches of planning control. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act as amended, since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
7. In these circumstances, the appeals on the grounds set out in section 174(2)(a), (c), (f) and (g) of the 1990 Act as amended, and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended, do not fall to be considered.

*Martin Allen*

INSPECTOR