



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 13 May 2016

Appeal ref: APP/N4720/C/16/3143947

Land at 1 Lane End Fold, Pudsey, West Yorks

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991.
- The appeal is brought by Mr S Kaushal against an enforcement notice issued by Leeds City Council.
- The notice was issued on 7 January 2016.
- The breach of planning control as alleged in the notice is "Without planning permission the erection of 3 dormers to the front".
- The requirements of the notice are: "Step 1 Dismantle and remove the dormers to the front from the roof. Step 2 Make good the parts of the roof to which the dormer windows was attached by reinstating the roof with materials to match those existing. Step 3 Remove from the site any resulting material, rubbish and equipment arising from compliance with Steps 1 and 2 above".
- The period for compliance with the notice is "Two months beginning with the day on which this notice takes effect".
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld but with correction.

Procedural matters

1. It is noted that matters which appear to constitute the breach of planning control are described in the notice as "Without planning permission the erection of 3 dormers to the front". For the avoidance of doubt, I consider that this should be amended to a more appropriate description as follows; "Without planning permission the erection of 3 dormer windows to the front elevation of the property". I am satisfied that no injustice would be caused by this amendment.

Reasons for the decision

2. The appellant contends that he requires more time to comply with the notice in order to allow for a retrospective planning application to be submitted and determined. He requests the time period be extended by 2/3 months. The Council point out that the appellant has already had a retrospective planning application refused and subsequently dismissed on appeal. Therefore, they have already exhausted all avenues and had over 6 months to submit another application.
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3. The appellant's request for more time to allow for a new application to be determined is noted. However, there is no evidence before me to demonstrate that such an application has been submitted. Whether an application will be submitted in the future can only be considered as a matter of speculation at this stage. Therefore, I cannot justify extending the compliance period further in these circumstances. I consider that the harm caused by the breach of planning control to the amenity of the surrounding area, which has persisted since at least January 2015, should not be allowed to continue. I am also mindful that some 3 months have elapsed since the appeal was made, with enforcement action effectively suspended. Therefore, as the compliance period will begin again from the date of this decision, the appellant has already effectively had the time period he has requested.
4. Therefore, I consider the two months given is sufficient to meet the requirements of the notice. The ground (g) appeal fails accordingly.

Formal decision

5. Under the powers of section 176 (2) (a) of the amended 1990 Act, it is directed that the enforcement notice be corrected under '**MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**', by the addition of the words "elevation of the property" to "Without planning permission the erection of 3 dormers to the front". Subject to this correction the appeal is dismissed and the enforcement notice is upheld.

K McEntee