
Appeal Decision

Site visit made on 15 August 2016

by John Braithwaite BSc(Arch) BArch(Hons) RIBAMRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 August 2016

Appeal Ref: APP/D2320/C/16/3143506 and 3143573

Land to the rear of 209 Town Lane, Whittle-le-Woods, Chorley PR6 8AG

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr and Mrs Briscoe against an enforcement notice issued by Chorley Borough Council.
 - The enforcement notice was issued on 5 January 2016.
 - The breach of planning control as alleged in the notice is the erection of a summerhouse/garden tool store.
 - The requirements of the notice are demolish the summerhouse/garden tool store and remove the materials resulting from the demolition from the land.
 - The period for compliance with the requirements is two months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The enforcement notice is varied by the deletion of 'two months' in section 6 of the notice and the substitution instead of 'four months'. Subject to the variation the appeal is dismissed and the enforcement notice is upheld.

Reasons

The ground (a) appeal

2. The summerhouse/garden tool store was the subject of a planning appeal against refusal of planning permission for its retention on the land. The appeal was dismissed by an Appeal Decision dated 26 January 2015. This ground (a) appeal is, again, for retention of the summerhouse/garden tool store.

3. The law on consistency in planning decision making is derived from the judgement in *North Wiltshire v Secretary of State for the Environment* [1993] 65 P&CR 137. At paragraph 145 of his judgement Mann LJ stated that "...like cases should be decided in a like manner so that there is consistency in the appellate process. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system".

4. This case is not even one where it must be judged by comparison with a similar case. This case must be judged against a previous decision for the same case. Nothing of materiality has changed since the planning appeal was determined; this was confirmed by Mr Briscoe at the site visit. Furthermore, nothing mentioned in support of this appeal, including the possibility of screening the structure and the possibility of granting a temporary or personnel planning

permission, justifies diverging from the principle of law established in the aforementioned authority or from the decision reached in the planning appeal. Planning permission must therefore be withheld for retention of the summerhouse/garden tool store and the ground (a) appeal thus fails.

The ground (f) appeal

5. The structure on the land is about 4.5 metres by 3 metres with a ridge height of about 2.75 metres. It is a substantial structure and it is not clear how it could be made moveable so that it does not, potentially, contravene a planning condition imposed on the planning permission for the land on which it is situated. In any event, this possibility is a choice for the Appellants to make and does not constitute a reason to consider the requirement of the notice to be excessive or to be a lesser step that would overcome objections to the structure. In this regard the structure is, as a matter of fact, now and at the time of issue of the enforcement notice, a permanent feature of the land and its removal is the minimum requirement. Other matters mentioned in support of the ground (f) appeal, such as the possibility of screening the structure and the possibility of granting a temporary or personnel planning permission, are relevant to the ground (a) appeal and have been considered above. The ground (f) appeal thus fails.

The ground (g) appeal

6. Two months would be an adequate compliance period for demolition and removal of the structure but it is reasonable for the Appellants, in the interests of sustainability and finance, to be provided adequate time to advertise, sell and relocate the structure. Six months as sought by the Appellants is excessive but four months strikes a balance between a sustainable resolution to compliance with the notice and the need for this to occur as soon as is reasonably possible. The ground (g) appeal thus succeeds to this extent and the enforcement notice has been varied accordingly.

John Braithwaite

Inspector