



Appeal Decision

by Ken McEntee

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

Decision date: 8 November 2016

Appeal refs: APP/P1805/C/16/3153441 & 3153442

Land at Lane Cottage, Aqueduct Lane, Alvechurch, Birmingham BA8 7BP

- 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 brought by Mr Michael Prophet and Ms Sarah Wharrad against an enforcement notice issued by Bromsgrove District Council.
- The notice was issued on 7 June 2016.
- The breach of planning control as alleged in the notice is "Without planning permission, the erection of uPVC double glazed single storey extension ("the unauthorised development").
- The requirements of the notice are: "i) Remove the unauthorised development. ii) Remove from the Land all building materials and rubble arising from compliance with the first requirement i) above, and restore the Land to its condition before the breach took place".
- The period for compliance with the requirements of the notice is "**2 months** after this notice takes effect".
- The appeals are proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeals are dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. In the appeal form, the basis of the appellants' case is that they require more time to comply with the notice in order to arrange for builders to undertake the works and to obtain matching bricks. However, in their agent's final comments submission, it is stated that extra time is required due to the ill health of a family member who is occupying the unauthorised extension. They suggest the compliance period be extended to 5/6 months.
2. However, it is noted that more than 4 months have elapsed since the appeal was submitted with enforcement action effectively suspended. Therefore, as the time to comply with the notice will begin again from the date of this decision, the appellants' will effectively have had the time they have requested to arrange for builders to carry out the required works, to obtain the matching bricks and to allow for improvement in the health situation of the family member currently occupying the extension. Therefore, in these circumstances, I see no reason to justify extending the compliance period further. The ground (g) appeals fail accordingly.

3. Nevertheless, while I am dismissing the appeals, should the appellants' experience any genuine difficulties, the Council have the power, under section 173A (1) (b) of the amended 1990 Act, to extend the compliance period themselves, if they see fit. Whilst this is entirely a matter for the Council's discretion, it would be open to the appellants to ask for a further short extension of time, should that prove necessary.

Formal decision

4. For the reasons given above, the appeals are dismissed and the enforcement notice is upheld.

K McEntee