
Appeal Decisions

Site visit made on 3 March 2017

by Elizabeth Jones BSc (Hons) MCTP MRTPI

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

Decision date: 24 April 2017

Appeal A Ref: APP/P0119/C/16/3165535

Appeal B Ref: APP/P0119/C/16/3165843

Land at Wyngarth, Main Road, Easter Compton

- 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 Le Parc Associates Limited (Appeal A) and Inglerock Ltd (Appeal B) against an enforcement notice issued by South Gloucestershire Council.
- The enforcement notice, numbered COM/16/0102/OD/1, was issued on 2 December 2016.
- The breach of planning control as alleged in the notice is the unauthorised erection of a front boundary brick wall indicated by the green line on the attached site plan (for identification purposes only).
- The requirements of the notice are:
 - 1) Remove the unauthorised brick wall and its constituent materials as indicated by the green line on the attached site plan (for identification purposes only) and within the attached photograph annexed figure 1.
 - 2) Following the unauthorised brick wall being removed, make good the exposed stone work on the existing stone boundary wall with similar materials up to where the brick wall has been detached.
- The period for compliance with the requirements is 2 months.
- The appeals are proceeding on the ground set out in section 174(2) (c) of the Town and Country Planning Act 1990 as amended.

Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld.

Preliminary Matter

1. In relation to Appeal B, the appellant claims that the requirements of the notice lack clarity as to what is considered 'similar materials'. Requirement 2 makes it clear that following removal of the brick wall the exposed stone work on the existing stone wall is to be made good with similar materials.
 2. In relation to Appeal B, the submissions and third party representations make reference to the merits of the development enforced against. However, as there is no appeal on ground (a) and no deemed planning application for me to consider, the planning merits of the development are not relevant to my decision.
 3. I note the comments made regarding the owner/occupiers of The Willows and that the Council's decision to issue the enforcement notice is disproportionate and unjustified. Whether it was expedient to issue the notice is a matter for the Council and is not relevant to the s174 grounds of appeal.
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The appeals on ground (c)

4. The appeal on ground (c) is that the matters alleged in the notice do not constitute a breach of planning control. The onus of proof is on the appellant and the test of the evidence is the balance of probability.
5. The appeal site is former garden land. The Council granted planning permission Ref: PT13/0322/F for 'Erection of 3No. detached dwellings and 1No. detached garage with access, parking and associated works (re submission of PT12/2878/F)' on 20 May 2013 (hereafter referred to as the '2013 permission').
6. The planning history also includes planning permission Ref: PT14/4056/F for 'Erection of 1No. dwelling. Amendment to previously approved scheme PT13/0322/F to enlarge and alter Plot 2' granted on 14 January 2014 (hereafter referred to as the '2014 permission').
7. The appellants' say that the works carried out were authorised by these permissions in line with the Proposed Site Layout Plan Drawing Rev 02. Rev H (PSLP) of the Construction Management Plan (CMP) submitted in compliance with condition 8 of the 2013 permission.
8. The evidence indicates that a section of the stone front boundary wall was removed to allow access to construction vehicles with the intention of the wall being rebuilt on completion of the site. Subsequently the section of wall was rebuilt using the same brick as approved by the Council in its discharge of Condition 2 in relation to the external facing materials¹.
9. I accept that the brick material used in the construction of the wall is the same as that approved for the external facing materials. However, the external facing materials and boundary treatments are subject to separate conditions governing their details. The brick material approved for the external facing materials was not approved as part of the boundary treatment. Neither the PSLP nor the Council's correspondence² in discharging various planning conditions refers to the specific materials to be used in the rebuilding of the wall and this is acknowledged in subsequent correspondence³. Moreover, the approved landscaping plan⁴ makes no reference to the front boundary wall.
10. The PSLP indicates that a section of the existing front boundary wall would be taken down and reconstructed as the site is completed. It is contended that the reference in the PSLP to reconstruction is not the same as restoration. A normal everyday dictionary definition of reconstruction is "a thing that has been rebuilt after being damaged or destroyed". It is not unreasonable to assume in this particular case that the section of the wall removed to aid construction would be rebuilt in its original form and that prior approval of any alternative materials other than those used in its original construction would be sought prior to their use in its reconstruction.
11. From the evidence before me, there is no record or document to show that the materials used in the reconstruction of the wall have been formally authorised by the Council. This includes the communication between the appellants and

¹ Letter from Council dated 21 October 2014.

² Letter from Council dated 27 May 2014.

³ Letter from Le Parc Associates dated 16 September 2016.

⁴ Landscaping Layout Drawing No LAN01C dated Dec 2013.

the Council's Enforcement Officer. Therefore, it has not been demonstrated that the matters alleged in the notice do not constitute a breach of planning control. The appeals on ground (c) therefore fail.

Formal Decision

12. The appeals are dismissed and the enforcement notice is upheld.

Elizabeth Jones

INSPECTOR