
Appeal Decision

Site visit made on 29 July 2019

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 2 August 2019

Appeal Ref: APP/Y3940/C/18/3215450

Land at Thistle Barn, Ashley Box, Corsham, Wiltshire, SN13 8AJ

- 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 made by Mr P Waters against an enforcement notice issued by Wiltshire Council.
 - The enforcement notice, numbered 18/00298/ENF, was issued on 3 October 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, operational development comprising the erection of a building on the approximate area of the Land hatched in blue on the attached plan titled "Notice Plan".
 - The requirements of the notice are: a) Demolish the unauthorised building on the approximate area of the Land hatched in blue on the attached plan titled "Notice Plan"; b) Permanently remove all material resulting from requirement (a) from the Land.
 - The period for compliance with the requirements is two months from the date the Notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Procedural Matters

2. I am aware that the appellant has undertaken works to the building since the Council issued the enforcement notice. I was able to see at my site visit what the building looks like now. However, the enforcement notice attacks the "erection of a building" in the approximate position shown hatched in blue on the plan attached to the enforcement notice. As a matter of fact, irrespective of what the building looks like, that is still the case.
3. Moreover, there is no ground (a) appeal or deemed planning application for me to consider under s177(5) of the 1990 Act. Consequently, I cannot consider any matters of planning merit, including about how the appellant considers the building could be made acceptable by carrying out further works, as well as the recent changed appearance of the structure. I shall return to the matter of future works and the possibility of a planning application below.

Reasons

4. An enforcement notice shall specify the steps required by the local planning authority in order to achieve wholly or partly the purposes set out in s173(4) of the 1990 Act. Given that the notice alleges the erection of a building and the steps require that building to be demolished and the resulting material to be removed from the land, the purpose of the notice is clearly to remedy the breach of planning control by restoring the land to its condition before the breach took place. The steps require no more and no less. Consequently, the steps required by the notice do not exceed what is necessary to remedy the breach of planning control. Therefore, the ground (f) appeal must fail.
5. In view of the above, the whole building would need to be removed. I do understand that the appellant has engaged with the Council to see if there may be an acceptable design solution that may involve keeping the building with alterations and a planning application may be submitted accordingly. These are matters away from this appeal. However, if a planning permission was granted in the future for a building on this site, by virtue of s180 of the 1990 Act the notice would cease to have effect in relation to any development carried out before the grant of that permission. I do though make it very clear that any future decisions made by the Council are not in my control and they are not fettered in any future actions or decisions by me drawing attention to this other part of the 1990 Act.

Conclusion

6. The appeal should fail and the enforcement notice should be upheld.

Gareth Symons

INSPECTOR