



Appeal Decision

Site visit made on 2 December 2019

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 5 December 2019

Appeal Ref: APP/Y1138/C/18/3219495

Land to the south of Gaddon House (NGR 307090 111167) (Culm Wood), Uffculme, Cullompton

- 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 Tony Connor against an enforcement notice issued by Mid Devon District Council.
 - The Enforcement Notice (EN) was issued on 19 November 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, building operations to extend an existing building on the Land in the approximate location marked with "X" on the Plan ("the Building").
 - The requirements of the notice are: (a) Demolish all the Works comprised in the unauthorised extension to the Building, including but not limited to the walls, floors and foundations; (b) Permanently remove from the Land all the materials arising from the demolition of the Works under 5(a) above, including but not limited to breezeblocks, metal lintels, corrugated metal sheets, concrete and timber; (c) Reinstate the Land to its former condition prior to the Works being carried out.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) 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.

The ground (c) appeal

2. In legal grounds of appeal such as this the burden to make out their case rests with the appellant. This ground is based on the claim that the matters alleged in the EN, which in this case is an extension to an existing building, do not constitute a breach of planning control.
3. The photographs showing the building before any of the current works took place show a simple oblong building with what may be a small extension on the left-hand side when seen approaching the apex end of the building from the track that leads to the structure. Although these photographs show vegetation that has grown over and around the building, there is no discernible sign of any other development such as former extensions.
4. In contrast there are now new concrete block walls about head height off the front apex end and side that do not appear to be on the same footprint of the

building and its extension described above. There is no substantive evidence showing that the recent works sit on original foundations or that the walls resemble what may have been there before. I looked at the base of the new walls and saw what were probably tops of foundations, but there was no way of clearly telling whether they were new or old. However, even if there was a footprint to build off, the new walls were clearly not there before the current works started and there is nothing to show that any former walls were taken down and rebuilt as part of reinstating a building. Given this background, as a matter of fact and degree I find that the building has been extended.

5. S55(1) of the 1990 Act defines the meaning of development as including building operations in, on, over or under land. Building operations are defined as including structural alterations of or additions to buildings. Subject to certain exceptions, none of which appear relevant here, s57 of the 1990 Act sets out that planning permission is required for the carrying out of any development of land. In the above context, building operations have taken place that have added to the building and there is no evidence of any planning permission for that development. Consequently, there has been a breach of planning control meaning that the ground (c) appeal must fail.

The ground (f) appeal

6. 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. In this case the notice alleges that building operations have occurred to extend a building. In short, the steps require the extension to be demolished, for all resulting materials to be removed and the land put back to the way that it was. It is clear therefore that the purpose of the notice is to remedy the breach of planning control by restoring the land to its condition before the breach took place. Although the appellant considers that certain materials are being kept there for reinstating the building, I have found that is not the case in relation to the alleged breach of planning control and such materials associated with that would need to be removed in order to comply with the notice.
7. The steps require no more and no less other than what is necessary to remedy the breach of planning control. As such, they are not excessive. Putting the land back to its condition before the breach of planning control occurred is a matter of judgement which the appellant can make based on his record of what the building looked like before the extension subject of the notice was added.
8. The ground (f) appeal also fails.

The ground (g) appeal

9. The timescale suggested by the appellant for complying with the notice has already passed due to the time taken for the appeal. I consider that four months, which will run from the date of this decision, does not fall short of should be reasonably allowed. Therefore, the ground (g) appeal also fails.

Conclusion

10. For the above reasons, the appeal is dismissed and the enforcement notice is upheld.

Gareth Symons INSPECTOR