



Appeal Decisions

Site visit made on 18 May 2020

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 19 May 2020

Appeal Ref: APP/J4423/C/19/3236606

Land at 11a Collegiate Crescent, Sheffield S10 2BA

- 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 Toni Durand and Paul Hewitt against an enforcement notice issued by Sheffield City Council.
 - The enforcement notice was issued on 6 August 2019.
 - The breach of planning control as alleged in the notice is non-compliance with condition 2 of planning permission 12/02437/FUL granted by an appeal decision dated 30 May 2013 (Ref. APP/J4432/A/13/2189469).
 - The requirements of the notice are i) Make such amendments to the development so that it complies fully with the detail in drawing 003 Revision A; ii) Without prejudice to i) above carry out works of partial demolition which ensures that the development is no closer to the ground floor flat windows than shown on drawing 003 Revision A; and iii) Remove any materials that arise from the execution of paragraphs i) and ii) above; or iv) Demolish the development and remove any materials that arise from the demolition from the land.
 - The period for compliance with the requirements is 5 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(d) and (f) of the Town and Country Planning Act 1990 as amended. The prescribed fees have not been paid so an 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 appeals are allowed and the enforcement notice is quashed.

Reasons

The ground (d) appeals

2. To be successful under ground (d) the development must have been substantially complete more than four years before the date of issue of the enforcement notice. The critical date is therefore 6 August 2015.
3. Front door access to 11a Collegiate Crescent is at first floor level. The permitted development was for, in brief, the replacement of an external staircase to the front door with a decked area, with car port below, across which is access to the front door. Condition 2 of the planning permission requires compliance with two drawings; drwg. no. 002 Rev A is existing and proposed floor plans and drwg. no. 003 Rev A is existing and proposed elevations. The drawings are inconsistent; the proposed plan shows the decked area to be wider than as shown on the proposed elevations. The decked area as constructed accords with the plan.

4. The decked area is the only access to the front door so the development had to be carried out whilst the Appellants were not at home. Also, to minimise their time away from home the development had to be carefully planned and carried out in a short space of time. Both Appellants, their neighbour who has occupied the flat below their property since 2012, and the contractor who carried out the works, have all made statements that tell the same story. The steelwork for the structure was prepared during May 2015 and on-site works were commenced in late May to coincide with the Spring Bank Holiday. The Appellants went camping for a short period and nearby so that they could be on hand if needed. The main structure was in place on their return in late May or early June. Outstanding works such as painting and electrical work were completed during June.

5. The statements are consistent and plausible. The development that is the subject of planning permission 12/02437/FUL was completed by the end of June 2015 and therefore before the critical date of 6 August 2015. The development was therefore completed more than four years before the date of issue of the enforcement notice and is immune from enforcement action. The ground (d) appeals thus succeed and the ground (f) appeals do not need to be considered.

John Braithwaite

Inspector