



Appeal Decision

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 24 June 2020

Appeal Ref: APP/N4720/C/19/3239966

Barbondale Mill Lane, Bardsey, Leeds, LS17 9AN

- 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 Nicholas Ashley against an enforcement notice issued by Leeds City Council.
 - The enforcement notice, reference 18/00587/UHD3, was issued on 27 September 2019.
 - The breach of planning control as alleged in the notice is without planning permission the raising of the roof by means of the insertion of two dormers of the detached outbuilding.
 - The requirements of the notice are: 1. Remove both dormers from the roof of the outbuilding. 2. Make good the roof with materials to match the rest of the roof. 3. Remove any debris and detritus from the land resulting from steps 1 and 2.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied: by the deletion of 3 months and the substitution of 6 months as the period for compliance. Subject to this variation the enforcement notice is upheld.

Reasons

Ground (f)

2. To succeed on this ground the appellant must show that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy the breach of planning control, or as the case may be, to remedy any injury to amenity which has been caused by any such breach. The notice requires that the dormers are removed and that the roof is made good. These requirements when read with the reasons for the issue of the notice indicate that the purpose of the notice was to remedy the breach of planning control. In the absence of a valid appeal on ground (a) I am unable to consider the planning merits of the development. I am satisfied that the requirements do remedy the breach of planning control and fulfil the purpose of the notice without exceeding what is necessary to remedy that breach. The appellant's case on this ground is that the rear dormer should be permitted to remain and that this would be the lesser step. However, this could not be achieved without consideration of the planning merits of the rear dormer. For these reasons I consider that the appeal on ground (f) should not succeed.

Ground (g)

3. I understand from the appeal statement that the current residents of the ancillary accommodation will need to find a new home before the necessary building works can be undertaken. I therefore believe that the period of 6 months would be a proportionate timescale in which to comply with the notice. I am varying the notice to reflect this and the appeal does succeed on ground (g).
4. For the reasons given above I conclude that a reasonable period for compliance would be 6 months, and I am varying the enforcement notice accordingly, prior to upholding it. The appeal under ground (g) succeeds to that extent.

Zoë Franks

INSPECTOR