



Appeal Decision

Site visit made on 28 May 2021

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 07 June 2021

Appeal Ref: APP/A0665/C/20/3264815

**Huntington Hall Cottage, Aldford Road, Huntington, Chester, Cheshire
CH3 6EA**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Pierre Pozzuto against an enforcement notice issued by Cheshire West & Chester Council.
- The enforcement notice was issued on 30 October 2020.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a building and associated hardstanding.
- The requirements of the notice are:
 - i. Remove the unauthorised development and associated hardstanding;
 - ii. Remove all resulting materials from (i) from the land outlined in red on the enforcement notice plan.
- The period for compliance with the requirements is 10 months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the 1990 Act as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

1. Planning permission was granted for a detached garage at the appeal property¹. I understand that the appellant has erected a different garage, in a different location to that approved, due to financial and practical considerations. It is argued that the resulting structure is temporary and necessary, while being similar to the development approved. Nonetheless, the planning permission has not been implemented and a different development has taken place. There is no argument before me that there has not been a breach of planning control.
2. The appellant also seeks to show that there has been no harm to the Green Belt or the character and appearance of the area. However, there is no ground (a) appeal and associated application for deemed planning permission, so I cannot take the planning merits of the development into account. Similarly, the lack of comment from interested people is not relevant to the grounds pleaded.
3. In addition to the ground (f) appeal, the appellant has included representations that relate to the compliance period. I have considered these matters under ground (g), below.

¹ Ref 20/00198/FUL dated 8 June 2020.

Ground (f) appeal

4. Section 173(4) of the 1990 Act as amended indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first is to remedy the breach of planning control which has occurred. The second is to remedy any injury to amenity which has been caused by the breach. In this case, the reasons for issuing the notice refer to the site's location within the North Cheshire Green Belt and the effect of the development on the character and appearance of the area. It is apparent that the purpose of the notice is to remedy the breach of planning control. What must be considered is whether the requirements exceed what is necessary to achieve that purpose.
5. The appellant suggests alterations to the development to incorporate a "drain away basin" to counteract the non-porous concrete flooring, which was laid to support the garage, and/or to paint the structure a different colour. Neither of these alternatives would remedy the breach of planning control, which is the statutory purpose behind the notice. As there is no ground (a) appeal, and associated deemed planning application, I cannot consider granting permission for the altered development proposed as this would be beyond my powers.
6. For these reasons, the appeal on ground (f) must fail.

Ground (g) appeal

7. The ground (g) appeal is that the time specified in the notice for compliance falls short of what should reasonably be allowed. The appellant indicates that he cannot afford to comply with the notice within the timeframe given.
8. While I acknowledge the appellant's concerns, I consider the 10 months allowed by the notice to be proportionate and reasonable in this instance, especially as it is claimed that the development is temporary.
9. The appeal on ground (g) fails, therefore.

Conclusion

10. For the reasons given above I consider that the appeal should not succeed.

Formal Decision

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

Debbie Moore

Inspector