



Appeal Decision

Site visit made on 21 June 2021

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8TH OCTOBER 2021

Appeal Ref: APP/Z0116/C/20/3261554

15 Bridge Street, Eastville, Bristol BS5 6LN

- 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 Mrs Sharon Wingrove against an enforcement notice issued by Bristol City Council.
 - The enforcement notice was issued on 24 September 2020.
 - The breach of planning control as alleged in the notice is: without the grant of planning permission the erection of a two storey rear extension/framework enclosure/structure with provision and access to flat roof via doors at first floor level.
 - The requirements of the notice are: demolish and remove from the site in its entirety the unauthorised two storey rear extension/framework enclosure/structure and close and seal the door access on the first floor rear elevation.
 - The period for compliance with the requirements is 28 days after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) of the Town and Country Planning Act 1990 as amended.
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Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Procedural matters

1. I note that much of the appellant's case refers to a neighbour dispute of some sort and that there is criticism of the Council in this matter. Whilst I do not dismiss the appellant's representations in this regard, I am unable to consider such matters within the forum of this appeal. My consideration of the appeal is confined to the grounds upon which the appeal has been made.

Ground (b)

2. The appeal on ground (b) is that the matters alleged in the enforcement notice, which appear to the Council to constitute the breach of planning control, have not occurred. The test of the evidence is on the balance of probability and the burden of proof is on the appellant.
3. The appeal site is occupied by a terrace property set on a sloping site. As such, the ground floor of the property is at street level, whereas the basement level provides access to the rear garden. I noted that a timber framed addition has been attached to the rear elevation of the property at garden level. This spans the width of the rear garden. Although parts of the rear elevation were solid, the other elevations of the frame were open. In addition to the partly enclosed ground floor of the addition, the frame also provides an elevated platform that could be accessed from the kitchen to the rear of the property at ground floor level. A wire mesh has been fitted to the frame, enclosing the elevated platform.

4. I acknowledge the appellant's case, that the addition is not a structure, as alleged in the notice. Whilst I can see that the design of the frame is organic, the appellant nevertheless acknowledges that a wooden frame has been constructed and that this is intended to provide a safe outside area at the elevated ground floor level. I note that the notice uses a number of words to describe the breach (i.e. an 'extension/framework enclosure/structure with provision and access to flat roof'). However, having regard to the addition that the notice targets, I am satisfied that this adequately describes the breach; the addition provides a partly enclosed extension at basement level and an elevated platform at the property's ground floor level, as mentioned above.
5. I note the Council's reference to legislation and caselaw that is relevant when determining whether or not something is development, as defined in The Town and Country Planning Act 1990 as amended (the 1990 Act). However, it is the appellant's case that the matter targeted by the notice is not a structure, rather than it is not development for the purposes of section 55 of the 1990 Act¹. Nevertheless, I have no reason to disagree with the Council's case in this regard.
6. All things considered, I cannot be satisfied that the appellant has discharged the burden of proof in this case. Accordingly, I conclude that the development described in the notice has, on the balance of probability, occurred and that the ground (b) appeal should fail.

Ground (c)

7. To succeed on ground (c), the appellant must demonstrate that, on the balance of probability, the matters alleged in the notice do not constitute a breach of planning control. Again, the burden of proof is on the appellant.
8. The appellant's case as it relates to ground (c) is briefly stated and is that, as the structure is timber, it was thought that it fell under 'the accepted development rules'. The appellant does not, however, specify what those rules might consist of. Nevertheless, the Council have considered the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the Order).
9. Class A, Part 1, Article 3 of Schedule 2 of the Order permits the enlargement, improvement or other alteration of a dwellinghouse. However, A.1. of Class A sets out the circumstances where development would not be permitted by Class A. The Council point to A.1.(k)(i), and states that the addition that is the target of the notice is not permitted by Class A as it consists of the construction or provision of a verandah, balcony or raised platform. As I note above, whilst the timber frame is enclosed in part at basement level, it also provides an elevated platform above the basement and garden level that is accessed and used from the property's ground floor. The development, therefore, complies with A.1.(k)(i). For this reason I find that it is more likely than not that the development is not permitted by the Order.
10. I have not been made aware of any reason why the development in question does not require the benefit of express planning permission, in accordance with section 57 of the 1990 Act, and it has not been suggested that the necessary planning permission has otherwise been granted. Accordingly, and on the

¹ Section 55 of the 1990 Act defines the meaning of development.

balance of probability, the development alleged in the enforcement notice constitutes a breach of planning control. For this reason the ground (c) appeal must fail.

Conclusion

11. For the reasons given above, I conclude that the appeal should not succeed. I shall, therefore, uphold the enforcement notice.

Formal Decision

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

J Moss

INSPECTOR