
Appeal Decision

Site visit made on 26 October 2021

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 17 November 2021

Appeal Ref: APP/Q9495/C/21/3272504

2 Syke Villa, Troutbeck, Windermere LA23 1PJ

- 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 Graeme Ramsbottom against an enforcement notice issued by Lake District National Park Authority.
- The enforcement notice was issued on 9 February 2021.
- The breach of planning control as alleged in the notice is building operations consisting of the construction of a raised patio area as shown in the attached photographs A and B (Appendix 1) and shown in the approximate position marked with a cross on the attached plan.
- The requirements of the notice are to permanently remove the raised patio area and restore the land to its original condition.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.

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

The appeal on ground (f)

1. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purpose of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). Since the notice requires the permanent removal of the raised patio area, the purpose is clearly to remedy the breach.
2. In this case the appellant suggests mitigating the harm caused by the development by reducing the length of the patio, providing a screen wall at the end of the reduced patio, removing the end part of the existing patio, reducing the front wall and reprofiling the area behind and planting the reprofiled area with shrubs. Since in this case there is no ground (a) appeal (that planning permission ought to be granted for what is alleged in the notice) and the purpose is to remedy the breach, any lesser steps cannot be accepted through ground (f). The Act cannot be interpreted as allowing a submission that the requirements exceed what is necessary to remedy any injury to amenity where, as in this case, the purpose of the requirements is to be found wholly within s173(a).
3. In this respect, the appeal on ground (f) fails.

Formal Decision

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

A A Phillips

INSPECTOR