



Appeal Decisions

Site visit made on 17 November 2021

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

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

Decision date: 15 December 2021

Appeal Ref: APP/P4415/C/21/3280063 and 3280064

7 Brookfield Mews, South Anston, Rotherham

- 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 Nicholas Bracey and Natalie Bracey against an enforcement notice issued by Rotherham Metropolitan Borough Council.
 - The enforcement notice was issued on 2 July 2021.
 - The breach of planning control as alleged in the notice is 'The dwelling has been built without 2 x chimneys along the cills and headers to the windows as shown on approved plan RB2015/1383 Amended elevation drawing 03 rev A. The dwelling is now occupied'.
 - The requirements of the notice are 'Install the chimney (x2) and the headers and cill features as detailed on the approved plan RB2015/1383 03A'.
 - The period for compliance with the requirements is 3 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended. The prescribed fee was not been paid within the specified period so an appeal on ground (a) cannot be considered.
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Decision

1. The enforcement notice is corrected by the deletion of 'along with the cills and headers to the windows' in section 3 and 'and the headers and cill features' in section 5 of the notice.
2. The appeals are dismissed and the enforcement notice is upheld as corrected.

Correction to the enforcement notice

3. The Council has accepted that "...the property does feature brick detailing around each of the windows". This brick detailing accords with the features shown on the approved drawing and the enforcement notice has thus been corrected by the deletion of references to 'cills and headers' in the alleged breach of planning control and in the requirement of the notice.

Reasons

4. A ground (c) appeal is made when it is claimed that the breach of planning control alleged in the enforcement notice either has planning permission or is permitted development. Construction of the dwelling in accordance with approved drawings is the requirement of a condition of planning permission RB2015/1383. Construction of the dwelling not in accordance with an approved drawing is in breach of the condition and omission of the chimneys as shown on the approved drawing cannot therefore benefit from planning permission and is not permitted development. The ground (c) appeals thus fail.

Other matters

5. The merits of retaining the house as built can only be considered under a ground (a) appeal, which has not been made.

Conclusion

6. The omission of the chimneys as shown on the approved drawing does not have planning permission and is not permitted development. The ground (c) appeals have thus failed.

John Braithwaite

Inspector