



Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2022

Appeal Ref: APP/J1860/C/21/3283119

5 Lamb Bank, MALVERN, WR14 4NE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Robert Duddell against an enforcement notice issued by Malvern Hills District Council.
 - The notice was issued on 18 August 2021.
 - The breach of planning control as alleged in the notice is: The erection of an extension.
 - The requirement of the notice is to: Permanently remove the extension approximately edged in blue on the attached plan and lawfully remove all resulting materials from the land edged in red on the attached plan.
 - The period for compliance with the requirement is: 4 calendar months.
The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the Enforcement Notice (EN) is upheld.

Procedural Matter

2. Consideration of an appeal under s174(2)(g) of the 1990 Act does not require any matters of planning merit to be assessed. It only requires an assessment of matters of fact. Consequently, there was no need to visit the appeal site.

Reasons

3. I understand that the appellant wishes to have more time to explore with the Council the opportunity to have a different extension that might mean being able to use materials from the existing structure. Therefore 12 months is requested to comply with the EN. However, four calendar months is not an unreasonable time in which to remove the extension and the resulting materials from the land. Also, several months have already passed since the EN was issued and four months from the date of this decision would take the compliance period to about the end of May 2022. By then approximately nine months would have elapsed anyway since the Council took enforcement action.
4. Moreover, if following a pre-planning enquiry submitted to the Council an alternative scheme is found to be acceptable, the Council has the power if appropriate to waive or relax any requirements of the EN, including the time for compliance, albeit that is not a power over which I would have any control.
5. For the above reasons, the appeal fails.

Gareth Symons

INSPECTOR