
Appeal Decision

Site visit made on 22 February 2022

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

an Inspector appointed by the Secretary of State

Decision date: 28 February 2022

Appeal Ref: APP/N2739/C/21/3284874

3 Halfway Cottages, Newland, Drax YO8 8PP

- 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 Ms Louisa Williams against an enforcement notice issued by Selby District Council.
- The enforcement notice was issued on 10 September 2021.
- The breach of planning control as alleged in the notice is the erection of a domestic outbuilding, including the creation of a hardstanding/hard surface and creation of an access.
- The requirements of the notice are:
 - Step 1: Demolish the domestic outbuilding.
 - Step 2: Permanently remove all materials as a result of demolishing the domestic outbuilding from the land.
 - Step 3: Permanently remove all hardcore and other material laid to form the access from the land.
 - Step 4: Permanently remove any gates erected to form the access from the land.
 - Step 5: Carry out any works required to return the Land to its condition prior to the erection of a domestic outbuilding and creation of access.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) 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 demolition of the domestic outbuilding, removal of materials, removal of all hardcore, removal of any gates erected and works required to return the land to its condition prior to the breach of planning control, the purpose is clearly to remedy the breach. Any measures short of those specified in the notice would not achieve that purpose.
2. The appellant contends that it is questionable whether it is in the public interest to remove the building and further changes to the building or landscaping could be provided to allow the building to be retained. However, no specific details have been submitted. Furthermore, planning merits may only be considered pursuant to ground (a), where that is pleaded and the fee is paid for the deemed planning application. If, as in this case, an appeal is not brought on ground (a), it is not appropriate for appellants to introduce arguments on the

merits in the context of an appeal on ground (f). Consequently, it is not for me to determine whether lesser steps could remedy the breach. In this respect, the appeal on ground (f) fails.

The appeal on ground (g)

3. The ground of appeal is that the time given to comply with the requirements is too short. The six months given would be sufficient to carry out the requirements of the Notice. The appellant has suggested that the time for compliance is extended to eighteen months in order to give additional time to obtain quotes, appoint a suitable contractor, raise funds and carry out the necessary works. This would be excessive given the ongoing harm caused by the development. In any case, I consider six months is suitable time period and would not place a disproportionate burden on the appellant. Therefore, the appeal on ground (g) does not succeed.

Other Matters

4. The appellant has drawn my attention to the matter of her Human Rights, and that in deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.
5. Articles 8 and 10 of the Human Rights Act 1998 states that everyone has a right to respect and family life, and their home, among others. These are qualified rights, whereby interference may be justified if in the public interest, but the concept of proportionality is crucial. In this particular case it is in the public interest and proportional to control the development of the open countryside and in order to protect the safety of highway users. Therefore, the Council's course of action is appropriate in this case.

Formal Decision

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

A A Phillips

INSPECTOR