



Appeal Decision

Site visit made on 8 February 2022

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2022

Appeal Ref: APP/Z0116/C/21/3287146

40 Park Road, Stapleton, Bristol, BS16 1AT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Phil Baird against an enforcement notice issued by Bristol City Council.
 - The notice was issued on 6 October 2021.
 - The breach of planning control as alleged in the notice is the erection of a structure comprising of an elevated platform and scaffold supports projecting over the land and serving as additional amenity space for the abutting residential property.
 - The requirements of the notice are to dismantle the unauthorised structure in its entirety and remove from the land.
 - The period for compliance with the requirement is 28 days.
 - 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. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decision

1. The appeal is allowed on ground (g) and it is directed that the enforcement notice be varied by the deletion of "28 days" and the substitution of "four months" as the period for compliance at paragraph 5. Subject to this variation the enforcement notice is upheld.

Preliminary Matter

2. No fee was paid and there is no deemed application arising from an appeal on ground (a). Therefore, the planning merits of the raised platform, which would include consideration of its visual impact and any benefits provided, are not before me in this appeal.

Ground (f) appeal

3. The ground of appeal is that the requirements of the enforcement notice are excessive.
 4. The notice attacks a metal framed raised platform with metal railings and a timber walking surface. The raised platform projects outwards from a level area of residential garden, over steeply sloping land.
 5. An enforcement notice can have two purposes. Firstly, it can seek to remedy the breach of planning control alleged therein, including by requiring restoration of the land to its condition prior to the breach taking place. Secondly, the notice can require the remedying of any injury to amenity which has been caused by the breach.
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6. The notice does not state whether it is the former or latter of the above purposes, or both, that it sets out to achieve. The requirements involve total removal of the raised platform. The notice does not require something which would stop short of removal, for example reducing the height of the raised platform or alterations to its external appearance in some fashion. Therefore, the purpose of the notice must be to remedy the breach.
7. Given the above context, anything that required less than total removal of the raised platform would not remedy the breach and so would not achieve the purpose of the notice. Altering the external appearance or reducing the overall height for example would mean that the raised platform would remain and the site would not be restored to its pre-breach condition. Therefore, such alterations do not represent an obvious alternative to the notice requirements. Moreover, varying the requirements to stop short of removal of the raised platform would attack the substance of the notice. This is not within the scope of what can be achieved under ground (f) where, as in this case, there is no ground (a) appeal and the purpose of the notice is to remedy the breach. No other alternative to the notice requirements was drawn to my attention. To my mind, nothing other than those requirements would remedy the breach.
8. Therefore, in my view the notice requirements are a proportionate remedy for the breach and are not excessive. The ground (f) appeal fails.

Ground (g) appeal

9. The ground of appeal is that the time for complying with the requirements of the notice falls short of what should reasonably be allowed.
10. From what I could see, the raised platform is reasonably small in scale. For the most part, the raised platform was probably assembled by hand and the constituent components joined together by bolts, screws or similar fixings. Assembling it is unlikely to have involved the use of specialist plant or equipment. The remedial works should therefore be a relatively straightforward task for a DIY enthusiast or a suitably experienced small building contractor. I am given to understand that assembling the raised platform took the appellant several months, with a family member also helping. In my estimation the remedial works would not take anything close to the same amount of time. Dismantling the raised platform would probably be less complex than its assembly. Whilst no family members might be able to assist in carrying out the works, that does not prevent the appellant from engaging additional labour or a contractor, albeit that a cost would almost inevitably be involved in doing so.
11. Nevertheless, in practice it is likely that a 28-day compliance period would afford a householder in full-time employment limited opportunity to undertake the remedial works themselves. Given the time of year and shorter hours of daylight currently available, the time they would have for carrying out the works is likely to be largely limited to weekends. As there is also a reasonable prospect of prolonged periods of adverse weather conditions occurring during the next few weeks, the time available for the appellant to undertake the works could be further curtailed. Even if the appellant engaged the services of a contractor, it is unlikely that they would be able to start the works straight away; experience would suggest that currently, waiting times of some weeks for contractors to become available to carry out building works are not uncommon. The possibility of significant setbacks being encountered before or

during the works as a result of the continuing effects of the COVID-19 pandemic, for example due to the appellant or, if relevant, their contractor experiencing a prolonged period of illness, adds to my concerns regarding the practicalities of dismantling the raised platform within the period specified in the notice.

12. Given the above factors, in my view a compliance period of four months would achieve a fairer balance between remedying the breach and the planning harm identified in the notice as soon as is practicable, whilst also affording the appellant a reasonable timeframe in which to undertake the works or to arrange for and have them carried out. In the next four months daylight hours will become progressively longer and the prospect of prolonged periods of adverse weather conditions will recede. A four-month period would also offer the appellant ample opportunity to search for and engage a suitable contractor, if they need to do so, whilst providing them with a reasonable amount of notice. Additionally, a four-month compliance period offers some scope to absorb a delay in undertaking the works. From the above it also follows however that a longer period for compliance, for example up to twelve months, would achieve little beyond perpetuating the breach and the harm identified.
13. Accordingly, in my view four months is a reasonable period for compliance. The ground (g) appeal succeeds to that extent.

Conclusion

14. For the reasons given above I conclude that whilst the requirements are not excessive, a reasonable period for compliance would be four months and I am varying the enforcement notice accordingly, prior to upholding it. The appeal under ground (g) succeeds to that extent.

Stephen Hawkins

INSPECTOR