



Appeal Decision

Site visit made on 14 June 2022

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2022

Appeal Ref: APP/X4725/C/22/3294162

Land at 3 Vicar Lane, Ossett WF5 0BE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Anthony Barnett against an enforcement notice issued by Wakefield Metropolitan District Council.
 - The notice was issued on 4 February 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised development of a pergola and timber decking on the Land.
 - The requirement of the notice is to remove the pergola and timber decking from the front boundary of the Land.
 - The period for compliance with the requirement is two 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.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matter

2. The postcode in the banner heading above is taken from the appellant's appeal form since none was given on the enforcement notice.

The appeal on ground (f)

3. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. The purposes of an enforcement notice are set out in Section 173 of the Act and are to remedy the breach of planning control (s173(4)(a) or to remedy injury to amenity (s173(4)(b)).
4. As the enforcement notice requires the pergola and timber decking to be removed, I find the purpose is to remedy the breach of planning control, rather than to remedy injury to amenity by requiring lesser steps to be taken. That purpose can only be achieved in this case by removing the pergola and timber decking.
5. The appellant's case is that having regard to the previous appeal decision¹, the development could be made acceptable through the use of an appropriate landscaping scheme. They argue that the landscaping scheme would screen the pergola from views, provide privacy for the adjacent school and increase habitats for wildlife and the biodiversity of the site. They also state that landscaping would result in the site being viewed in a largely comparable manner to how it was previously viewed and, would therefore protect the visual

¹ APP/X4725/D/21/3272979

amenity of the site. However, these are matters which could only be considered in the context of a planning application for the pergola and decking.

6. Where there is no appeal under ground (a) consequently there is no deemed application for planning permission. As such, and whilst I acknowledge representations in support of the development, there can be no arguments about or consideration of the planning merits of the development under ground (f).
7. Similarly, whilst I acknowledge the appellant's comments regarding the Council declining to determine a further planning application for the development, this has no bearing on this ground of appeal. The only consideration is whether the requirements exceed what is necessary to achieve the identified purpose.
8. Since the purpose of the notice is to remedy the breach of planning control which has occurred, no lesser steps other than those set out in the notice would achieve that purpose. Therefore, the appeal on ground (f) fails.

Conclusion

9. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Felicity Thompson

INSPECTOR