
Appeal Decisions

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2022

Appeal A Ref: APP/N4720/20/C/3294285
Land at 44 Sandhurst Road, Leeds LS8 3QP

- 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 Mrs Zahida Perveen against an enforcement notice issued by Leeds City Council.
 - The enforcement notice was issued on 3 February 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of a dormer to the front.
 - The requirements of the notice are:
 - Step 1 – Demolish the unauthorised dormer entirely.
 - Step 2 – Reconstruct the dormer to the extent necessary to enable it to be reconstructed such that it will allow for the implementation of the approved planning permission reference 17/07115/FU.
 - Step 3 – Remove from the site any resulting material, rubbish and equipment arising from compliance with Steps 1 or 2.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/N4720/20/C/3294287
Land at 46 Sandhurst Road, Leeds LS8 3QP

- 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 Mrs Zahida Perveen against an enforcement notice issued by Leeds City Council.
 - The enforcement notice was issued on 3 February 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of a dormer to the front.
 - The requirements of the notice are:
 - Step 1 – Demolish the unauthorised dormer entirely.
 - Step 2 – Reconstruct the dormer to the extent necessary to enable it to be reconstructed such that it will allow for the implementation of the approved planning permission reference 17/07115/FU.
 - Step 3 – Remove from the site any resulting material, rubbish and equipment arising from compliance with Steps 1 or 2.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Decisions

Appeal A

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

Appeal B

2. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of four months and the substitution of eight months as the period for compliance. Subject to this variation the enforcement notice is upheld.

Procedural Matter

3. Considering the matters at appeal it was not necessary to visit the appeal premises. The main parties agreed that I can reach a decision based on the representations and supporting information submitted by them as a matter of course as part of the appeal process.

Appeal A & Appeal B on ground (g)

4. The issue is whether the compliance periods are reasonable. The appellant considers that a longer period is necessary due to her personal circumstances.
5. Enforcement investigations initially commenced in 2019, and I understand that since then the Appellant has suffered a marital bereavement. I therefore recognise that the personal circumstances of the Appellant are challenging.
6. The works to remove or modify the dormer extensions will be disruptive and will need to be carried out by a builder. Although a period of four months is a sufficient time period to carry out those works, I am mindful that it will be necessary for building services to be engaged which may take a further couple of months. Furthermore, that considering the scale of the works which involve alterations to the roof, then it would be beneficial to occupiers of the property if those works did not have to be carried out during the winter months. However, I am also mindful that the enforcement notice was issued to address harm to the character and appearance of the host property and street scene. In the public interest the harm should therefore cease as soon as possible.
7. The conclusion I have come to is that a period of eight months strikes the right balance. To this extent the appeal on ground (g) succeeds.

Human Rights

8. I have taken into consideration the Human Rights Act, 1998 which enshrines in UK law most of the fundamental rights and freedoms contained in the European Convention on Human Rights. I recognise that dismissal of the appeal would interfere with the appellant's rights under Article 8 and Article 1 of the First Protocol. However, given the harm identified and taking into account the variation to the notice to increase the time for compliance, the action is in accordance with the law and pursues legitimate aims of protecting the environment and is necessary and proportionate to the situation.

Conclusion

9. For the reasons given above, and having taken account of all other matters raised, I conclude that the appeals succeed. I shall uphold the enforcement notices with variation.

Elizabeth Pleasant

INSPECTOR