



Appeal Decisions

Site visit made on 25 July 2023

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date 22 August 2023

Appeal A Ref: APP/K0425/C/22/3295959

Appeal B Ref: APP/K0425/C/22/3295960

Land at 1 Marlow Road, High Wycombe, Buckinghamshire HP11 1TA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Mr Razwan Baig (Appeal A) and Mrs Sayra Baig (Appeal B) against an enforcement notice ref 21/00401/OP issued by Buckinghamshire Council - West Area (Wycombe).
 - The notice, numbered 21/00401/OP, was issued on 1 March 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of an extension to a detached outbuilding.
 - The requirements of the notice are to:
 1. Demolish the extension (shown in the approximate position hashed on the attached plan);
 2. Remove from the Land (shown outlined by the dashed line on the attached plan), all materials and debris resulting from compliance with Step 1 of this Notice.
 - The period for compliance with the requirement is: six months.
 - The appeals are 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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Summary of Decision: The appeals are dismissed, and the enforcement notice is upheld.

Preliminary Matters

1. Following the issuing of the notice, planning permission was granted for construction of an outbuilding as an art studio and a close boarded fence¹ at the appeal site. This required altering the building subject to the notice by reducing its height and changing the shape of the roof. The main parties confirmed that these works have been completed and from my observations on site I see no reason to reach a different finding. The appellant subsequently withdrew their appeal under ground (a) and it now proceeds on ground (f) only.
2. There were minor differences between the notice provided by the appellant and that of the Council in their appeal submissions, including reference to the colour on the plan identifying the site. The appellant was satisfied that the extent of land to which the notice relates is clear from the plan attached to the notice. Therefore, I am satisfied that there has been no injustice to the appellant or the local planning authority.

¹ 22/05835/FUL

Application for costs

3. An application for costs was made by Mr Razwan Baig against Buckinghamshire Council - West Area (Wycombe). This application is the subject of a separate Decision.

Appeal A and Appeal B on ground (f)

4. Ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
5. Since the notice requires the demolition of the extension to the outbuilding and removal of materials and debris, the purpose of the notice is to remedy the breach.
6. After the issuing of the notice, planning permission was granted for an amended design of the extended outbuilding with a lower height and different roof shape. S180 of the Act states that where after the service of a copy of an enforcement notice planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. Therefore, the planning permission overrides the notice to the extent that the permission authorises what is being enforced against.
7. However, the evidence before me indicates there was no valid planning application with the Council or other details before them at the time of the notice being issued showing this or any other alternative design. Given the planning permission involved changes to the roof height and shape it was not an obvious alternative.
8. Were the appellant to comply with the whole of the notice, at that stage they could have pursued a new extension to the outbuilding under permitted development rights. Nonetheless, amending the requirements of the notice to an alternative design, of which there was none before the Council at the time, including lowering the height to within the scope of Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015, would not remedy the breach.
9. Consequently, Appeals A and B fail on ground (f) as the steps required by the notice to be taken do not exceed what is necessary to remedy the breach of planning control.

Conclusion

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

Formal Decision

11. The appeals are dismissed, and the enforcement notice is upheld.

Stuart Willis

INSPECTOR