



Appeal Decision

Site visit made on 26 October 2023

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2023

Appeal Ref: APP/A4710/C/23/3323189

Land at The Mistle, Firth House Barn, Scammonden Road, Barkisland, Halifax HX4 0EL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Keith Johnson against an enforcement notice issued by Calderdale Metropolitan Borough Council.
- The notice, numbered 21/60090/ENF, was issued on 28 April 2023.
- The breach of planning control as alleged in the notice is Without planning permission, the construction of a detached stone building on the Land comprised of a garage with annexe joined to the north side of the building on ground floor level and office on the first floor (in the approximate position indicated on the attached plan marked Plan ENF1 and as seen in the digital photographs attached to this Notice at Appendix 3).
- The requirements of the notice are to:
 - (i) Remove the detached stone building from the Land (in the approximate position indicated on the attached plan marked Plan ENF1 and as seen in the digital photographs attached to this Notice at Appendix 3).
 - (ii) Remove permanently from the Land all building materials and rubble arising from compliance with requirement (i) above and restore the Land to its condition before the breach occurred.
- The period for compliance with the requirements is: 3 (Three) months.
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Decision

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

Reasons

2. The appeal is made only on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended. This ground is that the period for compliance specified in the notice falls short of what should reasonably be allowed.
3. The appellant instead seeks a period of nine months to comply with the requirements of the notice. To support this, copies of correspondence with two contractors has been provided stating that the required works would take up to five weeks to undertake, but that there would be a lead in time before they could start the works. One contractor states that this lead in time would be approximately six months and the other nine months. There is therefore no dispute that the works themselves could be completed within the compliance period, and the only hindrance to this put forward by the appellant is the apparent availability of a contractor to carry them out.
4. I am mindful that correspondence with only two contractors has been put forward in support of this position. It may well be that other contractors could take on the work sooner. The limited sample of contractor non-availability that

has been provided does not provide a compelling case that it would not be reasonably possible to both secure a contractor and for them to then carry out the required works within the compliance period of three months. Of additional relevance is that the appeal is made only on ground (g) and therefore the outcome of this appeal cannot affect whether the building is to be demolished. This being the case, the appellant will have been aware that ultimately, in order to comply with the notice, the building will have to be demolished.

5. Whilst the appellant points to the fact that the enforcement notice was issued two days after they submitted a revised planning application¹ to retain the building, that application was refused planning permission on 7 July 2023. It has been confirmed in their representations that they have not sought to appeal that decision. Although they are taking advice including with respect to permitted development rights and whether to engage in further discussions with the Council on the future of the building, there is a need to remedy the harm that has been caused by the breach of planning control that has occurred.
6. This timeline means that the appellant has already had a substantial period of time, even allowing for time to decide if they were to appeal the most recent refusal of planning permission, to put in place arrangements for a contractor to demolish the building. I take that circumstance into account in my determination of this appeal. In that context and on account of there being only limited evidence that a contractor could not in any event be secured to carry out the work within the current compliance period, I find the period of three months that is afforded by the notice to be reasonable. Consequently, the appeal fails.

Conclusion

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

Graham Wraight

INSPECTOR

¹ 23/00305/HSE