



Appeal Decisions

Site visit made on 16 January 2024

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Appeal A Ref: APP/P2935/C/23/3320669

26 Cade Hill Road, Stocksfield, Northumberland NE43 7PU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Stuart Matthews against an enforcement notice issued by Northumberland County Council.
 - The notice was issued on 16 March 2023.
 - The breach of planning control as alleged in the notice is 'On 23 June 2020 planning permission was granted by the Council under reference number (20/00297/FUL) for the single storey rear extension with external steps subject to conditions. One of those conditions was that the development hereby permitted should be carried out in complete accordance with the approved plans. It appears to the Council that the condition has not been complied with, because the extension has been constructed as per the refused application ref: 20/03861/VARYCO which was dismissed at appeal on the 22 February 2022'.
 - The requirements of the notice are (i) Demolish the single storey rear extension, or; (ii) Construct the single storey rear extension so that it is in accordance with the 20/00297/FUL permission; and (iii) The extension should be constructed in accordance with the approved plans.
 - The period for compliance with the requirements is three 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. 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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Appeal B Ref: APP/P2935/X/23/3324294

Ashleigh, 26 Cade Hill Road, Stocksfield, Northumberland NE43 7PU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Stuart Matthews against the decision of Northumberland County Council.
 - The application ref 23/01363/CLPROP, dated 17 April 2023, was refused by notice dated 5 May 2023.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The development for which an LDC is sought is 'extension to rear of existing residential property'.
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Decisions

Appeal A Ref: APP/P2935/C/23/3320669

1. The enforcement notice is varied by the deletion of 'three months' in section 6 and the substitution instead of 'eight months'. Subject to the variation the enforcement notice is upheld.

Appeal B Ref: APP/P2935/X/23/3324294

2. The appeal is dismissed.

Preliminary Matters

3. An application for costs has been made by Mr Matthews, in relation to Appeal A, for an award of costs against Northumberland County Council. The application is the subject of a separate Decision.

Reasons

Appeal A

4. The appeal is made under ground (g) only; that the time given to comply with the notice is too short. A successful ground (g) appeal can only result in the compliance period being varied; it cannot result in the enforcement notice being quashed. The Appellant considers twelve months to be a reasonable compliance period to have detailed drawings prepared, to instruct appropriate contractors, and to complete the works necessary for either alternative requirement.

5. The requirements of an enforcement notice should be carried out as soon as is reasonably possible after the notice comes into effect; which will be the date of issue of this decision. Three months is, indeed, insufficient time to comply with the requirements of the notice but a compliance period of twelve months exceeds what is reasonable. Eight months strikes a balance between providing adequate time and ensuring that the requirements are carried out as soon as possible. To this extent the ground (g) appeal succeeds and the notice has been varied accordingly.

Appeal B

6. 26 Cade Hill Road is a two-storey semi-detached dwelling. Attached to its rear elevation is a single storey extension that was built pursuant to the grant of planning permission 20/00297/FUL. The extension is about 5.7 metres deep and high to its ridge, and does not comply with dimensional limitations for an extension to a dwellinghouse that would otherwise be development permitted under Class A of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO).

7. Development is not permitted by Class A if, under sub-paragraph (ja), any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j). The limitation of sub-paragraph (ja) applies if any existing enlargement was built pursuant to the grant of planning permission or is development permitted by the GPDO. The proposed extension for which an LDC is sought would be, crucially, joined to the existing extension. Given the provisions of sub-paragraph (ja) the proposed extension cannot therefore be development permitted under Class A of Part 1 of Schedule 2 of the GPDO.

8. For the reasons given above the Council's refusal to grant an LDC for a rear extension at Ashleigh, 26 Cade Hill Road, Stocksfield, Northumberland was well-founded and the appeal thus fails. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector