



Appeal Decisions

Site visit¹ made on 25 March 2024 by S Wilson LL.B. MSc MRTPI

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th April 2024

Appeals A and B Ref A: APP/D0840/C/23/3329177 and B: APP/D0840/C/23/3329179

3 Robartes Terrace, Lostwithiel, PL22 0AR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeals are made by Mr John King (Appeal A) and Mrs Lynda King (Appeal B) against an enforcement notice issued by Cornwall Council.
 - The notice was issued on 7 August 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a garage.
 - The requirements of the notice are to:
 - 1) Demolish and remove the building (garage) shown in approximate position marked X on attached plan.
 - 2) Demolish and remove the concrete plinth to the front of the property.
 - 3) Remove all materials arising from the compliance with 1) – 2) above from the land and restore the land to its former condition before the breach took place.
 - The period for compliance with the requirements is six months after the effect of the notice.
 - The appeals are proceeding on the grounds set out in s174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

It is directed that the enforcement notice be varied by the deletion of the following text “6 months” in section 6, and substitution therefor by the following period of compliance: 9 months. Subject to this variation, the enforcement notice is upheld.

Ground (f)

1. The building, which is described as a garage, is an enclosed structure situated to the front elevation. The challenge is that the steps required by the notice are excessive. The purpose of the notice is to remedy the breach of planning control, which can only be achieved by demolishing the unauthorised garage.
2. Permitted development rights do not apply retrospectively. Nonetheless, the appellants argue that some elements of the building could be retained, for example, a boundary wall and a driveway. However, the notice relates to the garage and the side walls and hardstanding are part of the unauthorised building. In any event, the steps required could not be varied to retain the hardstanding and side walls, due to the nature of the work required. Such a variation would introduce significant imprecision.
3. Furthermore, the purpose of the notice is to remedy the breach which can only happen by complying with the notice. The requirements of the notice are not excessive and the appeal on ground (f) should fail.

¹ The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Ground (g)

4. The appeal on ground (g) is that this time is insufficient. The requirements constitute a significant task for the appellants given their personal circumstances. The nature of the requirements also suggests a slightly longer period of compliance would be justified. I consider that six months is not a reasonable period for compliance. I conclude that the period for compliance should be varied to 9 months, and I have varied the notice accordingly. Ground (g) succeeds to this limited extent only.

Conclusion and Recommendation

5. For the reasons given above and having had regard to all other matters raised, I recommend that the notice should be upheld with variation to the period of compliance as explained above.

S Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

6. I have considered all the submitted evidence and my representative's report and on that basis the appeal fails on ground (f). However, the appeal is allowed on ground (g) only, because the period of compliance is varied from 6 to 9 months. Subject to this variation, the enforcement notice is upheld.

A U Ghafoor

INSPECTOR