



Appeal Decision

Site visit¹ made on 7 May 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: 16th May 2024

Appeal Ref: APP/D0840/C/23/3330456

12 Back Lane, Angarrack, Cornwall, TR27 5JE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Nathanael Lloyd against an enforcement notice issued by Cornwall Council.
 - The notice was issued on 1 September 2023.
 - The breach of planning control as alleged in the notice is: without planning permission, the construction of an outbuilding with parking area on the roof.
 - The requirements of the notice are to:
 - (1) Demolish and remove the building shown in approximate position marked with blue X on attached plan.
 - (2) Reinstate and repair any damage caused to the highway retaining wall.
 - (3) Remove all materials arising from 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 three months after the notice takes effect.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(f), (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 "3 months" in section 6, and substitution therefor by the following period of compliance: 6 months. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld.

Ground (f)

1. The building, which is described as an outbuilding with parking area on the roof garage, is an enclosed structure situated to the front elevation adjacent to the highway. The challenge is that the steps required by the notice are excessive.
2. The appellant argues that to remove the outbuilding and reinstate the original wall would be difficult and potentially dangerous, directing my attention to drawings for a new scheme. The work required to bring about the alternative scheme would be significant. However, there is no ground (a) before me, and the notice relates to the unauthorised outbuilding and parking on the roof area. Whilst I agree that reinstating the original wall is a difficult task which requires careful structural consideration, considering the planning merits of the alternative scheme advanced is beyond the remit of a ground (f) appeal.
3. However, I should consider if lesser steps would remedy the breach. The plans submitted do not show any structural calculations or method statements

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.

detailing the method of retention. Therefore, if I were to accept the suggestions of the plans, I would be introducing imprecision into the notice, the purpose of which is to remedy the breach. Remedying the breach can only happen by complying with the notice. The requirements of the notice are not excessive and the appeal on ground (f) should fail.

Ground (g)

4. The appeal is that the period of compliance is too short. The requirements constitute a significant task for the appellants given the highway safety issues and the need for the completed works to structurally retain a public highway. The nature of the requirements suggests a slightly longer period of compliance would be justified. I consider that three months is not a reasonable period for compliance. I conclude that the period for compliance should be varied to 6 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 appeal on ground (f) fails, but a reasonable period of compliance is 6 months and I recommend varying the period of compliance. The notice should be upheld with variation.

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 3 to 6 months. Subject to this variation, the enforcement notice is upheld.

A U Ghafoor

INSPECTOR