



Appeal Decisions

by J Whitfield BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Appeal A Ref: APP/W9500/C/24/3342267

Appeal B Ref: APP/W9500/C/24/3342268

29 Brook Lane, Ainthorpe, Whitby YO21 2LB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (the Act) (as amended). The appeals are made by Mr Stephen Suggitt (Appeal A) and Mrs Gillian Suggitt/Smith (Appeal B) against an enforcement notice issued by North York Moors National Park Authority (the LPA).
 - The notice was issued on 14 March 2024.
 - The breach of planning control as alleged in the notice is, without planning permission, operational development comprising construction of a large timber shed and construction of a timber lean to extension in the approximate position marked on the attached plan.
 - The requirements of the notice are:
 - i. Remove the timber shed.
 - ii. Remove the timber lean to extension.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(d) of the Town and Country Planning Act 1990 (as amended).
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Formal Decisions

Appeal A

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

Appeal B

2. The appeal is dismissed, and the enforcement notice is upheld.

Procedural Matters

3. Since the appeals proceed solely on ground (d) of S174(2) of the Act, I consider a site visit is not necessary as the appeals can be considered solely on the written evidence submitted.

Appeals A and B on ground (d)

4. In an appeal on ground (d), it is necessary for the appellants to demonstrate that, at the date when the enforcement notice was issued, no enforcement action could be taken in respect of the breach of planning control stated in the notice. S171 of the Act sets out the relevant time limits for enforcement action to be taken. The time limits have recently been amended with transitional arrangements in place¹. In this instance, the relevant period is four years beginning with the date on which the building operations were substantially

¹ Town and Country Planning Act 1990 as amended by Levelling-up and Regeneration Act 2023 (s115(1)(a)) and The Planning Act 2008(Commencement No.8) and Levelling-up and Regeneration Act 2023 (Commencement No.4 and Transitional Provisions) Regulations 2024 (Part 3(3)(b) and Part 3(5)(a)).

completed. It is necessary, therefore, for the appellant to demonstrate that the timber shed and timber lean to extension were substantially completed on or before 14 March 2020 such that no enforcement action may have been taken against them at the time the notice was issued.

5. The appellants state that the timber shed and timber lean to extension have been in situ for longer than the four year period. However, beyond the statement in the appeal form that the sheds are there lawfully and have been there for several years, the appellants do not state when the shed or the extension were substantially completed. The only vague indication is that the appellants state the lean to is a timber cover that was erected in 2018. Moreover, there are no photographs, contemporaneous documents or statutory declarations before me which support their position.
6. The LPA states that it considers, based on investigation, that the work to the shed began in February 2020 with the first evidence of completion provided on 26 April 2020. It is apparent that a complaint was received by the LPA on 7 February 2020 regarding the shed with a complaint on 26 April 2020 regarding the lean to extension. Two of the photographs provided are undated and thus do not assist. An image which is dated from October 2020 shows the shed largely obscured by a tree. Thus, it too does not assist in supporting the LPA's position. Furthermore, site visit photographs from 2023 do not assist nor do emails from November 2020, April 2021 or indeed the sales particulars which are undated.
7. It is also stated that aerial photo evidence shows the lean to extension constructed to some degree by May 2020. However, the aerial image provided which is said to be from May 2020 is somewhat grainy and it is difficult to ascertain what state of construction the lean-to extension was in at that point in time. Thus, the LPA's evidence to contradict the appellant's version of events is scarce and ambiguous.
8. Nevertheless, given the particularly sparse nature of the submissions put before me by the appellants, I consider their evidence is not sufficiently precise and unambiguous to satisfy the onus of proof.
9. I conclude, therefore, it has not been demonstrated, on the balance of probabilities, that at the date when the enforcement notice was issued, no enforcement action could be taken on the basis that the operational development comprising construction of a large timber shed and construction of a timber lean to extension was substantially completed on or before 14 March 2020.
10. The appeal on ground (d) therefore fails.

Conclusion

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

J Whitfield

INSPECTOR