



Appeal Decision

Site visit made on 2 October 2024

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2024

Appeal Ref: APP/Z0116/C/24/3339512

203 Wellington Hill West, BRISTOL, BS9 4QL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Detjon Prenci against an enforcement notice issued by Bristol City Council.
 - The notice was issued on 23 January 2024.
 - The breach of planning control as alleged in the notice is without the grant of planning permission the erection of a single storey extension to the front of the building used in association with the commercial ground floor unit.
 - The requirements of the notice are to remove the extension in its entirety and remove all demolition materials from the land
 - The period for compliance with the requirement is two months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (c) and (d) of the Town and Country Planning Act 1990 (as amended).
-

Decision

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

Preliminary Matters

2. A number of local people have raised objections to the development of the effect that it has on the character and appearance of the neighbourhood, on pedestrian safety and on levels of crime. However, as no appeal has been made on ground (a), the planning merits of the development do not fall to be considered.
3. The onus of proof for appeals made on legal grounds rests with the appellant and the level of proof is on the balance of probability.

The appeal on ground (b)

4. An appeal on this ground is that the breach of planning control has not occurred as a matter of fact. The appellant believes the notice was wrongly issued as prior to the building planning permission was granted by the Council. However this is a matter for the appeal on ground (c).
5. The Council received complaints in April 2021 that an extension was being erected in front of the appeal building. It comprises glazing panels with a polycarbonate roof enclosing an area of customer seating to the forecourt. This forecourt area had previously been subject to a restrictive condition preventing customer seating by way of a condition attached to permission 09/033779/F but this was varied in 2013, in permission 13/03578/X.

6. Photographs attached to the Council's statement of case illustrate the previous open forecourt seating area and also how the extension appeared at the time the notice was served.
7. As I observed on my unaccompanied site visit, the alleged development exists as a matter of fact and the appeal on this ground fails.

The appeal on ground (c)

8. An appeal on this ground is there has not been a breach of planning control as the appellant claims that the development is permitted development. However the appellant has not submitted any evidence to support his case.
9. Cafes and restaurants do not benefit from permitted development rights that would allow the alleged development to take place. I note that in April 2021 government measures were introduced during the COVID pandemic for moveable structures to assist certain businesses. However, the unauthorised development that has been constructed is a permanent structure and does not benefit from any planning permission. The appeal on this ground fails.

The appeal on ground (d)

10. An appeal on this ground is that it is too late to take enforcement action. The appellant states that as the extension had already been completed, no action could be taken in respect of the property extension.
11. The time limits for enforcement action are set out in section 171(B)(1) is four years before an operational development becomes immune from such action. As it was constructed in April 2021, the date of the serving of the enforcement notice is within that four year period.
12. The appeal fails on this ground.

Conclusion

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

P N Jarratt

INSPECTOR

