
Appeal Decision

Site visit made on 1 October 2024

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 21st October 2024

Appeal Ref: APP/Y2003/C/23/3332488
5 Burnham Road, Epworth, North Lincolnshire DN9 1BU

- The appeal is made by Michael Munro under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF230) issued by North Lincolnshire Borough Council on 11 May 2023.

- The breaches of planning control alleged in the notice are as follows: -

"A. Construction of a first floor covered decking area with a window in the west facing front elevation, as shown marked A on Plan 2 annexed to this Notice and photographs numbered 1 to 6 in Appendix 1 annexed to this Notice.

B. Construction of a first-floor balcony together with supporting structure which is affixed to the ground, as shown marked B on Plan 2 annexed to this Notice and photographs numbered 7 and 8 in Appendix 1 annexed to this Notice.

C. Construction of a walkway at first floor level along the rear of the property as shown marked C on Plan 2 annexed to this Notice together with supporting structure which is affixed to the ground, the dwellinghouse and the roof terrace as shown marked D on Plan 2 annexed to this Notice. The walkway and supporting structure are shown in photographs numbered 9 to 19 in Appendix 1 annexed to this Notice.

D. Creation of a roof terrace by the enclosure of the roof with walls, balustrades, posts, pillars and ornaments at the rear of the property, as shown marked D on Plan 2 annexed to this Notice and photographs numbered 16 to 19 in Appendix 1 annexed to this Notice.

E. Creation of a roof terrace by the enclosure of the roof with metal railings, walls, posts and pillars at the rear of the property as shown marked E on Plan 2 annexed to this Notice and photographs numbered 20 to 22 in Appendix 1 annexed to this Notice.

F. The addition of materials on top of existing render to create a geometric design on the north facing side elevation of the dwellinghouse as shown in photograph 23 in Appendix 1 annexed to this Notice.

G. The addition of materials on top of existing render to create a geometric design on the west facing front elevation of the dwellinghouse as shown in photograph 24 in Appendix 1 annexed to this Notice.

H. The addition of materials on top of existing render to create a geometric design on the south facing side elevation of the dwellinghouse as shown in photographs 25 and 26 in Appendix 1 annexed to this Notice."

- The requirements of the notice are as follows: -
 - "i) Demolish the first floor covered decking area with a window in the west facing front elevation, as shown marked A on Plan 2 annexed to this Notice and photographs numbered 1 to 6 in Appendix 1 annexed to this Notice; and
 - ii) Demolish the first floor balcony together with all of the supporting structure, as shown marked B on Plan 2 annexed to this Notice and photographs numbered 7 and 8 in Appendix 1 annexed to this Notice; and
 - iii) Demolish the walkway at first-floor level along the rear of the property as shown marked C on Plan 2 annexed to this Notice and photographs numbered 9 to 15 in Appendix 1 annexed to this Notice; and
 - iv) Remove all the supporting structure for the walkway from the dwellinghouse, ground and the roof terrace as shown marked D on Plan 2 annexed to this Notice and photographs numbered 9 to 19 in Appendix 1 annexed to this Notice; and
 - v) Remove all the means of enclosure of the roof: walls, balustrades, posts, pillars and ornaments at the rear of the property as shown marked D on Plan 2 annexed to this Notice and photographs numbered 16 to 19 in Appendix 1 annexed to this Notice; and
 - vi) Remove all the means of enclosure of the roof: metal railings, walls, posts and pillars at the rear of the property as shown marked E on Plan 2 annexed to this Notice and photographs numbered 20 to 22 in Appendix 1 annexed to this Notice; and
 - vii) Remove all the materials from on top of the render from the north facing side elevation of the dwellinghouse as shown in photograph 23 in Appendix 1 annexed to this Notice; and
 - viii) Remove all the materials on top of the render from the west facing front elevation of the dwellinghouse as shown in photograph 24 in Appendix 1 annexed to this Notice; and
 - ix) Remove all the materials on top of the render from the south facing side elevation of the dwellinghouse as shown in photographs 25 and 26 in Appendix 1 annexed to this Notice; and
 - x) Repair any damage to the render from the removal of the materials and paint any repairs in a matching colour to the render; and
 - xi) Restore the roof to the extension as shown marked A on Plan 2 annexed to this Notice in accordance with the design shown in photographs 1 and 2 in Appendix 2 annexed to this Notice; and
 - xii) Remove all materials from the demolition of the structures from the site."
 - The period for compliance with these requirements is twelve months beginning with the date that the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g). Since the prescribed fee has not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to be made by section 177(5) have lapsed and the planning merits of the appeal have not been considered.
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Decision

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

Reasons for the decision

Ground (f)

2. The purpose of an appeal on ground (f) is to maintain that the requirements of the notice exceed what is necessary to remedy the breach of planning control and any injury to amenity caused by it. In this instance, the requirements of the notice are the ones normally stipulated in a case where building operations have been carried out in breach of planning control. Their purpose is to remedy the breach by restoring the property to its condition before the breach took place.
3. The appellant makes three points under ground (f). Firstly, that the requirements that relate to the geometric design work are excessive, since he considers that a coating of paint matching the exterior render would be sufficient to mask it and make it look like other properties in the area. Secondly, the wood was added to support the walls and to provide insulation since the walls have no cavity. Thirdly, the balustrades are a necessary safety feature.
4. The geometric design work added materials to the previous plain render of the walls; overpainting these materials would not remedy the breach. There is no obvious alternative to the removal of the wood added to the walls for support and insulation or to the removal of the balustrades if the property is to be restored to its condition before the breach took place. The merits of these works have not been considered in this appeal decision following the lapse of ground (a) and the deemed planning application.
5. For the above reasons, the appeal on ground (f) has failed.

Ground (g)

6. Under ground (g), the appellant maintained that the time allowed for compliance with the notice was too short considering the amount of work required. It was established at my site visit that all the requirements of the notice had in fact already been complied with and I have therefore taken no further action on ground (g).

D.A.Hainsworth

INSPECTOR