

Appeal Decision

Site visit made on 27 August 2024

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

Decision date: 22nd October 2024

Appeal Ref: APP/Y2003/C/23/3335915

Jennan, Gashouse Lane, Owston Ferry, Doncaster DN9 1AL

- The appeal is made by Antony Noonan under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF229) issued by North Lincolnshire Borough Council on 27 November 2023.
 - The breach of planning control alleged in the notice is "the erection of a single storey side and rear extension, awning to the rear and car port to the frontage of the property".
 - The requirements of the notice are as follows: -
 - "i) Remove the single storey side extension in its entirety
 - ii) Remove the single storey rear extension in its entirety
 - iii) Remove the awning to the rear of the property in its entirety
 - iv) Remove the car port to the front of the property in its entirety"
 - The period for compliance with these requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g). Since there is an appeal on ground (a), an application for planning permission is deemed to have been made by section 177(5) in respect of the matters stated in the notice as constituting breaches of planning control.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for development at Jennan, Gashouse Lane, Owston Ferry, Doncaster DN9 1AL consisting of the erection of a single-storey side and rear extension, an awning to the rear and a car port to the frontage.

Reasons for the decision

Ground (d)

2. The ground (d) appeal relates only to the car port, which the appellant maintains is immune from enforcement action because it was erected more than four years before the notice was issued. In support of this claim, the appellant has produced images taken from the roadside dated 12 June 2016 and 11 July 2016 showing the car port in situ. Its appearance had not changed when I inspected it.
 3. The Council state that they do not know when the construction of the car part started but maintain that a Google Earth image dated 29 June 2019 shows that
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its construction was underway. As far as it is possible to ascertain anything clearly from this image, it appears to me to show that the car port was in situ on that date.

4. The dated images supplied by a neighbour do not show the car port. They show the single-storey side and rear extension during its construction. The appellant does not claim that the extension is immune from enforcement action.
5. On the evidence available to me, I consider that the construction of the car port was a separate act of development from the erection of the single-storey side and rear extension to the house and the awning at the rear of the house, both of which appear to have started after construction of the car port had been completed. The evidence shows that on the balance of probabilities the construction of the car port had been completed at the time the images produced by the appellant were taken in 2016. The car port is therefore immune from enforcement action and the appeal on ground (d) in respect of it has succeeded. The car port is, however, included in the appellant's appeal on ground (a) and I have therefore considered whether planning permission should be granted in respect of it.

Ground (a)

6. The main issues in deciding whether planning permission should be granted for the side and rear extension, the awning and the car port concern their effects on the appearance of the property and its surroundings and on neighbours' residential amenities. Planning policies indicate that development should be well designed and appropriate for its context and that neighbours' amenities should be protected by ensuring that a reasonable standard of sunlighting and daylighting is retained and that overbearing effects are avoided.
7. The Council maintain that the appearance of the development is out of character with the existing dwelling and has an adverse impact on the visual amenity of the local area, and that it is harmful to the residential amenities of adjoining dwellings because it has an overbearing impact and a loss of outlook. Neighbours' objections relate to scale, loss of sunlight and outlook.
8. The development as a whole has been constructed using materials that match the remainder of the house and are not out of keeping with the surrounding area. The car port is the only part of the development that is part of the street scene.
9. The Council's appeal statement does not raise any specific concerns relating to the car port. This is consistent with the Delegated Assessment made in relation to planning application PA/2022/1763 and with the reasons given for the refusal of that application. Neighbours' representations have also not raised concerns about the car port. It does not adversely affect the street scene; I consider that it complies with planning policies and that planning permission should be granted for it. Since the awning does not have a significant impact on any of the concerns mentioned above, planning permission should be granted for that as well.
10. The side and rear extension includes the covering-over of the path between the side of the house and the boundary of the property and further works to the rear alongside this boundary. The outcome is that the pre-existing brick pillars

and fencing on the boundary are now higher than they were before and the top of the fencing is now more solid and has the eaves of the flat roof of the extension above it.

11. The main concern about the side and rear extension relates to its height on the boundary with the neighbours' properties and the impact this may have on the neighbours' residential amenities. The representations received from one of the neighbours state that the increase in height over the pre-existing height of the pillars and fence is 0.44m, bringing the overall height now of the pillars and fence to 2.44m. The appellant's calculation of this height is similar; with the addition of the roof of the extension he calculates the overall height at the eaves of the extension to be 3m. As he points out, the permitted development height limit for single-storey house extensions near to a boundary is 3m at the eaves.
12. The additional height and solidity of development on the boundary has had some effect on the outlook previously enjoyed from the rear gardens and ground-floor windows of the two adjoining houses. There may also at certain times be a reduction in the amount of sunlight previously enjoyed. I do not, however, consider that the impact would be overbearing or unreasonable within the context of the applicable planning policies.
13. I have concluded that the side and rear extension, the awning and the car port have an acceptable effect on the appearance of the property and its surroundings and on neighbours' residential amenities. The appeal has therefore succeeded on ground (a) and planning permission has been granted. It has not been suggested that any planning conditions should be imposed in this event and I do not consider that any are required.

Grounds (f) and (g)

14. As a result of the success of the appeal, the enforcement notice has been quashed. Grounds (f) and (g) no longer fall to be considered.

D.A.Hainsworth

INSPECTOR