



Appeal Decision

by Vicki Hirst BA(Hons) PG Dip TP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 14/05/2024

Appeal reference: CAS-02875-W3T9C7

Site address: The Lookout, 1 Bay View, Rhossili, Swansea, SA3 1PN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991. The appeal is made by Mr Simon Morris against an enforcement notice issued by the City and County of Swansea Council.
 - The enforcement notice, numbered ENF2019/0283, was issued on 7 July 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a raised timber decked area with associated access steps and close-boarded timber fencing and gate attached to rear of decked area, at the front of the property.
 - The requirements of the notice are (i) dismantle the raised timber decking, steps and attached close-boarded fencing/gate from the front of the property, (ii) remove from the site and dispose of all materials arising from step (i) above.
 - The period for compliance with the requirements is two months beginning with the day on which the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended.
 - A site visit was made on 29 February 2024.
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Decision

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

Preliminary Matter

2. The appeal was originally made on grounds (a), (f) and (g) of the Town and Country Planning Act 1990 (the Act). Section 174(2)(D) of the Act states that an appeal against an enforcement notice may not be brought under ground (a) (that planning permission should be granted for what is alleged in the notice) if the enforcement notice was issued after a decision to refuse planning permission for a related development was upheld on an appeal under section 78 of the Act.
3. The development alleged in the notice was the subject of an earlier appeal under section 78 of the Act (PEDW Ref: CAS-02333-V3S3Z4) and was dismissed on 1 March 2023. The appellant was therefore advised that the appeal, the subject of this decision, would not proceed under ground (a). My decision is therefore only concerned with the appeal on grounds (f) and (g).

The appeal on ground (f)

4. An appeal on this ground is that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
5. The appellant has provided a set of plans with the appeal which indicate the provision of a stone “cock and hen” detail on the boundary wall with the neighbouring property. The appellant states that this is to address the previous Inspector’s concerns by replacing a proposed screen with this detail.
6. The breach alleged in the enforcement notice before me is confined to the construction of a raised deck area with associated steps and close-boarded timber fencing and gate attached to the rear of the decked area, at the front of the property. It makes no reference to the stone boundary wall or any screen. It would appear from my reading of the previous appeal decision, planning permission was sought at that time for the decking and the erection of obscured glass panelling on the east front wall. The Inspector’s decision refers to the development being partially completed.
7. The wall and screen do not feature in the alleged breach in the enforcement notice, nor are included in the requirements to comply with the notice as they had not been carried out at the time the notice was served. A ground (f) appeal is not an opportunity to evolve a revised scheme particularly where this would involve additional works which may require planning permission in their own right. The changes tabled by the appellant to alter the wall and screen are not lesser steps and fall outside works that can be considered under a ground (f) appeal. The appeal on ground (f) must therefore fail.

The appeal on ground (g)

8. An appeal on this ground is that any period specified in the notice for compliance falls short of what should reasonably be allowed.
9. The appellant seeks to extend the period of compliance to 6 months rather than the 2 months specified in the notice. His reasons relate to the limited availability of contractors.
10. No evidence has been provided to substantiate the difficulties of obtaining a contractor. The Council states that the works took less than a week to complete and has provided evidence of the same. In my assessment the dismantling and removal of timber decking and associated fencing and gates would be relatively easy and would not require any specialist building skills. I find the period of 2 months strikes the appropriate balance to ensure the unauthorised works are removed within a reasonable timeframe. The appeal under ground (g) therefore fails.

Conclusion

11. I have taken into account all other matters raised, including the support from a third party but find none that alter the above conclusions. The appeal fails under both grounds. I therefore dismiss the appeal and uphold the enforcement notice.
12. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act’s sustainable development principle through its contribution towards one or more of the Welsh Ministers’ well-being objectives.

VK Hirst

INSPECTOR