



## Appeal Decision

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by Janine Townsley LLB (Hons)

an Inspector appointed by the Welsh Ministers

Decision date: 10-02-2023

Appeal reference: CAS-01880-K0N6C4

Site address: 17 Colin Way, Caerau, Cardiff, CF5 5AJ.

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- 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 and Mrs Hicks against an enforcement notice issued by The City and County of Cardiff.
  - The enforcement notice, numbered 98625, was issued on 14 March 2022.
  - The breach of planning control as alleged in the notice is, without planning permission, the erection of a first-floor extension above an existing porch area.
  - The requirements of the notice are to demolish the first-floor front extension and restore the property to its previous appearance prior to the unauthorised first floor extension being erected.
  - The period for compliance with the requirements is 9 months.
  - 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 21 November 2022.
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### Decision

1. It is directed that the enforcement notice be varied by substituting twelve (12) months for nine (9) as the period for compliance. Subject to that variation, the enforcement notice is upheld.

### The appeal on ground (f)

2. This ground of appeal is that the steps required by the notice exceed what is necessary and lesser steps could be taken to remedy the breach or address the injury to amenity.
3. The appellant has stated that the injury to amenity could be addressed without requiring the demolition of the first-floor extension, however, it is clear from the enforcement notice that it seeks to remedy the breach. In any event, the appellant does not set out what lesser steps could be taken to remedy the breach. On the contrary, the appeal as pleaded under ground (f) is tantamount to an appeal under ground (a) that planning permission ought to be granted for the development set out in the notice. No ground (a) appeal has been pleaded in this case and the prescribed fees required for a ground (a) appeal have not been paid within the specified period. In any event, I note from the

evidence that the development set out in the notice was refused and that was upheld on appeal prior to the service of the enforcement notice thus preventing a ground (a) appeal under s. 174 (2D) of the 1990 Act.

4. The ground (f) appeal does not specify what lesser steps would be reasonable and asserts that the development as a whole is acceptable. In order to remedy the breach of planning control it is not excessive to require the demolition of the extension and accordingly, the ground (f) appeal must fail.

#### **The appeal on ground (g)**

5. This ground of appeal is that the time given to comply with the requirements of the enforcement notice is too short. The appellant has requested 18 months as the works will require substantial cost and will cause disruption for the appellant as the works would be carried out on the sole residence.
6. It has not been stated why additional time would enable the appellant access to increased finances. Reference has also been made to the availability of labour, equipment and materials. I understand that the works will cause disruption to the occupiers and they may choose to find alternative accommodation during the works but it has not been set out why this would not be achievable within the period for compliance. The Council has, however, acknowledged that there may be challenges in adhering to a 9 month period for compliance.
7. In this case, I consider a period of 12 months would be a reasonable compromise as 18 months is a considerable period of time to extend the breach of planning control and the negative impact this has had on the character and appearance of the area. In this regard, the ground (g) appeal meets with success.

#### **Conclusion**

8. For the reasons stated above, the ground (f) fails, the ground (g) appeal succeeds and accordingly it is directed that the enforcement notice be varied by substituting twelve (12) months for nine (9) as the period for compliance. Subject to that variation, the enforcement notice is upheld.

*Janine Townsley*

INSPECTOR

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