



Appeal Decisions

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 28/12/2023

Appeal references: CAS-02692-F6V1D8 and CAS-02694-C1W9P8

Site address: Coed y Nant, Cross Street, Pentre LL14 5AN

Appeal A Ref: CAS-02692-F6V1D8

- 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 Clwyd Roberts against an enforcement notice issued by Wrexham County Borough Council.
 - The enforcement notice, numbered ENF/2021/0274, PG/2020/0053, AR/046152 was issued on 21 March 2023.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the land from equestrian to residential and the siting of a residential static caravan.
 - The requirements of the notice are to:
 1. Cease use of the land for residential purposes.
 2. Permanently remove the static caravan from the land.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.
 - No site visit was made.
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Appeal B Ref: CAS-02694-C1W9P8

- 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 Clwyd Roberts against an enforcement notice issued by Wrexham County Borough Council.
- The enforcement notice, numbered ENF/2021/0274, PG/2020/0053, AR/046152, was issued on 21 March 2023.
- The breach of planning control as alleged in the notice is without planning permission the erection of close boarded fencing and gates, erection of a metal pergola, erection of a wooden shelter to the front of the static caravan, erection of a metal storage shed, creation of a decking area with posts, installation of paving slabs and steps, gravel and changes to land levels.
- The requirements of the notice are to:

1. Dismantle and remove the remaining close boarded fencing from the northern boundary of the land.
 2. Remove the metal pergola from the land.
 3. Remove residential paraphernalia including lights and ornamental planting from the land.
 4. Dismantle the wooden shelter from the front elevation of the static caravan and remove from the land.
 5. Dismantle the shed sited next to the static caravan and remove from the land.
 6. Dismantle the decking area along with the posts and rope and remove from the land.
 7. Remove the gravel, wooden steps, and patio slabs from the land.
 8. Reinstate the ground levels to their original state.
 9. Remove the gates from the entrance.
- The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.
 - No site visit was made.
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Decisions

Appeal A Ref: CAS-02692-F6V1D8

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

Appeal B Ref: CAS-02694-C1W9P8

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

Procedural matters

3. Both appeals related to a ground (g) and having regard to the submissions made on these appeals it was considered that a site visit was not needed in this instance. The parties were advised of this outcome and were given an opportunity to raise any concern. However, no response was received, and therefore the appeals proceed to a decision.

Appeal A Ref: CAS-02692-F6V1D8

The appeal on ground (g)

4. The ground of appeal is that the period specified in the notice falls short of what should reasonably be allowed. In the case of Appeal, A, the enforcement notice (EN) requires the steps to be complied with in 12 months. The steps require that the residential use ceases and that the caravan is removed from the site.
5. The appellant seeks a period of two years for the period of compliance as the appellant and his wife have nowhere else to live and would be homeless because of the EN requirements. The appellant and his wife have lived on the site for several years and has sought planning permission at appeal which was dismissed. Consequently, the appellant is not permitted to appeal ground (a) in this case due to the regulation which prevents it by section 174(2D) of the Act as amended.

6. The appellant has difficulty finding alternative accommodation within the set compliance period by virtue of the unmet affordable housing need in the Borough and the lack of suitable and affordable housing that is available to them. The appellant would need to carry out the requirements of the EN themselves due to financial reasons.
7. The local planning authority indicates that in February 2023 the Council's Housing Options Team were notified of the appellant's position and have confirmed that an active case is before them, although the appellant is not presently registered homeless. The Council's view is that the EN's compliance period is sufficient for him and his wife to find alternative accommodation if they were registered as homeless with the Housing Options Team.
8. The appellant and his wife would stand to lose their home and seek more time to find alternative accommodation. There is no evidence presented to indicate that the appellant and his wife cannot qualify as homeless at this time and be registered with the Council to obtain alternative accommodation within the twelve months compliance period. This situation concerning the lack of a suitable, available, and affordable home can be expected to change within the compliance period should the appellant and his wife be regarded as homeless by the Council, or that some other suitable alternative provision comes forward.
9. The appellant's family circumstance can be expected to change within this period of twelve months, whereas extending the period of compliance to two years would amount to the grant of a temporary permission for this duration. No case has been made to justify this timescale in the light of the reasons for issuing the EN. There are several planning reasons in the EN put forward in the public interest to indicate that the compliance period is reasonable and proportionate. The caravan site is in the Green Barrier, there are setting issues in relation to the World Heritage Site and issues concerning increasing phosphates levels to the River Dee and Bala Lake Special Area of Conservation.
10. Bringing this breach of planning control to an end in the public interest must be weighed against the interference with the appellant's and his family's rights to peaceful enjoyment of their possessions and to a private and family life and home. Whilst these matters have not been stated in submissions, they are matters that I must address when reaching a decision on the issue of whether the EN's compliance period is too short.
11. However, these are qualified rights; interference with them in this instance would be in accordance with the law and in pursuance of well-established and legitimate aims.
12. I consider that the interference by the amount of time given for compliance with the notice is proportionate after considering the conflicting matters of public and private interests so that there is no violation of their human rights.
13. The appeal on ground (g) therefore fails.

Appeal B Ref: CAS-02694-C1W9P8

The appeal on ground (g)

14. In relation to Appeal B, the steps of the EN require the removal of several items and structures connected to the caravan and within the land as defined by the notice. The EN requires a compliance period of 6 months. The appellant seeks a period of twelve months. The appellant contends that the requirements of the EN are extensive and would need to be undertaken by the appellant because of financial reasons.
15. As with Appeal A there is no ground (a) deemed application in this case because one cannot be brought under the regulation cited above, since it was previously dismissed at appeal under section 78. No substantive case has been made to explain why this

timeframe is too short, and the Council indicates that the boarded fence has been removed, but this has been replaced by a post and rail fence.

16. I do not regard that the operational works listed in the EN are that substantial that would require the assistance of a contractor to complete. The appellant has indicated that he would be doing the work himself and there is no compelling reason put forward that 6 months is not realistic and achievable to bring this breach to an end.
17. Given the reasons cited for issuing the notice I consider that 6 months as the period for compliance is proportionate and reasonable after considering the conflicting matters of the public interest against the private interests of the appellant.
18. The appeal on ground (g) therefore fails.

Conclusion

19. Both appeals A and B on ground (g) are therefore dismissed and the enforcement notice is upheld.

Iwan Lloyd

INSPECTOR