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# Appeal Decisions

Site visit made on 15 May 2012

**by David Richards BSocSci DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 May 2012**

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## **Appeal Ref: APP/B3410/C/11/2167382**

### **1A Ravens Way, Burton upon Trent, Staffordshire, DE14 2 JS**

- 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 Mrs Rosily Thomas against an enforcement notice issued by East Staffordshire Borough Council.
- The Council's reference is EN/2011/00245.
- The notice was issued on 25 November 2011.
- The breach of planning control as alleged in the notice is: Erection of wooden structure to rear garden without planning permission.
- The requirements of the notice are: (1) Reduce the size of the wooden structure to cover no more than 50% of the garden area; (2) Removal all resultant material to an authorised disposal site.
- The period for compliance with the requirements is 30 days.
- The appeal is proceeding on the grounds set out in section 174(2) (c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

**Summary of Decision: The appeal is dismissed and the enforcement notice upheld.**

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## **Appeal Ref: APP/B3410/C/11/2167383**

### **1A Ravens Way, Burton upon Trent, Staffordshire, DE14 2 JS**

- 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 George Vareed against an enforcement notice issued by East Staffordshire Borough Council.
- The Council's reference is EN/2011/00245.
- The notice was issued on 25 November 2011.
- The breach of planning control as alleged in the notice is: Erection of wooden structure to rear garden without planning permission.
- The requirements of the notice are: (1) Reduce the size of the wooden structure to cover no more than 50% of the garden area; (2) Removal all resultant material to an authorised disposal site.
- The period for compliance with the requirements is 30 days.
- The appeal is proceeding on the grounds set out in section 174(2) (c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

**Summary of Decision: The appeal is dismissed and the enforcement notice upheld.**

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### **Preliminary matter**

1. In addition to ground (a), the appellants ticked grounds (b) and (f) on the appeal forms. As the appropriate fee has not been paid, the deemed planning application does not fall to be considered. In respect of ground (b), the appellants do not argue that the development referred to in the notice has not taken place. A letter of seeking clarification was sent by the Planning Inspectorate on 30 December 2011, asking for amplification of the grounds of appeal. The appellant subsequently confirmed that the appeals were to proceed on ground (c) only by e-mail dated 1 February 2012.

### **Main Issue**

2. The ground of appeal is that there has not been a breach of planning control. Under this ground it is for the appellants to show that planning permission is not required for the development (for example because permission has already been granted, or because it is 'permitted development').

### **Reasons**

3. The appeals are concerned with a wooden structure that has been erected at the property. It is a single-storey structure, roofed in transparent materials, which extends over the full width and depth of the rear garden and is attached to the rear wall of the dwelling.
4. Planning permission was granted for the dwelling on 1st April 2010, subject to a condition which removed permitted development rights in respect of the erection of buildings or structures within the curtilage of the property, amongst other things<sup>1</sup>. Accordingly planning permission is required for the development which has been carried out, and no such planning permission has been granted. The appellants submitted a retrospective planning application to retain the structure (ref. P/2011/01083/MB), but planning permission was refused on 22 November 2011.
5. I conclude that the appellants have not demonstrated that there has not been a breach of planning control. Accordingly the appeal on ground (c) fails.

### **Other matters**

6. The appellants claim that they were misled into believing that planning permission was not needed, stating that they were in contact with the Council by telephone on several occasions before and during the course of the work being carried out. The Council have responded that they have no record of any conversation, and that, if a question had been specifically related to the appeal property, the appellants would have been advised that permitted development rights had been removed and that planning permission would be required. In the absence any record, it is not possible for me to reach a conclusion on this. In any event, where a ground (c) appeal has been made, my consideration must be confined to the question of whether or not there has been a breach of planning control, and my conclusion has been reached on this basis.

### **Conclusion**

7. For the reasons given above I consider that the appeals should not succeed.

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<sup>1</sup> Condition 12 of planning permission ref. P/2010/00108/EW

**Formal decisions**

**Appeal Ref: APP/B3410/C/11/2167382**

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

**Appeal Ref: APP/B3410/C/11/2167383**

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

*David Richards*

INSPECTOR