



Appeal Decision

Site visit made on 2 August 2011

by Simon Hand MA

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

Decision date: 9 August 2011

Appeal Ref: APP/X1735/C/11/2151040

84 Elm Close Estate, Hayling Island, Hampshire, PO11 9AU

- 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 Susan Hawkins against an enforcement notice issued by Havant Borough Council.
 - The Council's reference is ENF/10/54912.
 - The notice was issued on 18 March 2011.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a car port.
 - The requirements of the notice are a) Permanently remove the car port's 3 upright wooden posts located on the south side; b) permanently remove the car port's corrugated plastic roof and associated supporting timber joinery; and c) permanently remove the extended brickwork from the northern boundary wall down to the pre-existing height of 1.45m above ground level.
 - The period for compliance with the requirements is 3 months.
 - 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.
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Decision

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

Preliminary Matters

2. The appeal was made under grounds (c) and (d). After correspondence with the Inspectorate the appellant withdrew the appeal on ground (d). Although a lot of comments were made as to the lack of harm caused by the car port, no fee was paid, and there is no ground (a) appeal to consider. Consequently, I cannot take into account arguments about the effect of the car port on the character and appearance of the area or its impact on neighbours. The appeal is proceeding solely on ground (c), that planning permission is not required.

The appeal on ground (c)

3. To this end the appellant states the building is not permanent. On my site visit I saw the car port consisted of a roof supported on three wooden posts to one side, and a brick wall to the other. The Notice includes the upper part of the brick wall, which the Council state was added onto the existing 1.45m tall wall as part of the car port.

4. The brick wall is clearly a permanent structure. The roof of the car port is fastened to the wall and the wooden posts, and the posts appear to be bolted into the concrete drive. There is no suggestion the structure is designed to be removed, or is only a temporary feature. I have no doubt therefore that it is a permanent structure and as such is development within the meaning of s55 of the Act. As it is built forward of the front wall of the dwelling facing the highway it does not benefit from permitted development rights under Class E of the Town and Country Planning (General Permitted Development) Order 1995 as amended. Therefore it requires planning permission and the appeal under ground (c) fails.

Simon Hand

Inspector