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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 27/07/20

gan A L McCooey BA MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 03.09.2020

## Appeal Decision

Site visit made on 27/07/20

by A L McCooey BA MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 03.09.2020

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**Appeal Ref: APP/X6910/C/20/3247423**

**Site address: 7 Brynawel, Brynmawr, NP23 4RZ**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- 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 Thomas Phillips against an enforcement notice issued by Blaenau Gwent County Borough Council.
  - The enforcement notice, numbered C/19/052, was issued on 30 January 2020.
  - The breach of planning control as alleged in the notice is: without the benefit of planning permission, the erection of timber decking.
  - The requirements of the notice are to remove the unauthorised structure in its entirety.
  - The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (b) of the Town and Country Planning Act 1990 as amended.
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### Decision

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

### Reasons

2. The property is on the edge of the settlement and backs onto open land to the rear. An area of raised decking has been erected along the full width of the garden. A fence has been erected along the side boundaries and rear boundary with the open land.
  3. The only ground of appeal is that the matters specified in the enforcement notice have not occurred as a matter of fact. The timber decking has been erected and remains in situ. The matters alleged have occurred and this ground of appeal must therefore fail.
  4. The deck appears to project around 1 metre beyond the rear boundary of the adjoining dwellings. The Local Planning Authority alleges that this amounts to a change of use of land. The appellant disputes this stating that this land has always been part of the curtilage or garden of the dwelling. A statement of evidence containing a number of photographs is supplied in support of this position. The appellant also refers to the former fence posts remaining in line with new fence/deck and that the gardens of other dwellings are in line with the claimed rear boundary. A letter has also been submitted by a family member of the previous occupant in support of the appellant's evidence that the land has always been within the garden of the dwelling.
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5. The enforcement notice relates to operational development only i.e. the decking. It does not refer to a change of use of the land. This matter is not encompassed within the breach of planning control as specified and cannot therefore be considered as part of this appeal.
6. The appellant has indicated that he will apply for planning permission for the decking when the issue of the change of use has been resolved. As the change of use is not before me, this would be a matter for the appellant to discuss with the Local Planning Authority.

**Conclusion**

7. Having considered all the matters relevant to the appeal, I conclude that it must be dismissed, and the enforcement notice upheld.

*A L McCooey*

**Inspector**