



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 3 August 2016

Appeal ref: APP/W4705/C/16/3148806

Land at 38 Long Lane, Harden, Bingley, Bradford BD16 1HP

- 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 brought by Mr Nicholas Cummins against an enforcement notice issued by the City of Bradford Metropolitan District Council.
- The notice was issued on 22 March 2016.
- The breach of planning control as alleged in the notice is "Without planning permission the construction of an outbuilding to the rear of the property on the land ("the property").
- The requirements of the notice are: i. demolish the unauthorised outbuilding ii. remove all resulting materials from the land iii. Make good any damage caused as a result of compliance with this notice".
- The period for compliance with the requirements of the notice is "One calendar month".
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is allowed and the enforcement notice is varied and corrected in the terms set out in the formal decision below.

Procedural matters

1. I note that the wording of the time for compliance with the notice is "One calendar month". I consider that for the avoidance of doubt, this should be amended to add the words "after this notice takes effect". I am satisfied that no injustice would be caused by this amendment.

Reasons for the decision

2. The basis of the appellant's case is that he requires more time to comply with the notice as the Golden Fleece is popular for pre-booked functions. He contends that he needs time to obtain quotations for contractors and have finance put in place. An extension of time would also minimise the disruption and loss of employment. He also states that it would allow time to negotiate a suitable planning outcome. The appellant has not suggested an alternative period of time.
3. The appellant's concerns are noted but they have to be weighed against the stated harm caused by the unauthorised development to the surrounding area and residential amenity of adjacent dwellings. With that in mind, I note that the appellant hasn't provided any documentary evidence of any function pre-bookings. I also note that a retrospective planning application for the unauthorised works

was refused on 31 March 2016 and there is no evidence before me of a revised formal application being submitted. Therefore, whether an acceptable planning outcome can be reached can only be considered as a matter of speculation at this stage and I cannot justify extending the compliance period further in such circumstances.

4. Nevertheless, I am mindful that the Council have not submitted any objections in response to the specific reasons given by the appellant for requesting an extension of time. Therefore, I consider it would be reasonable to grant a short extension from 1 month to 3 months to help the appellant ensure he will have the necessary finance in place to employ a contractor to carry out the works and to allow more time for staff to find alternative employment. I take the view that this extension provides a reasonable balance between the need to bring the harm caused by the unauthorised development to an end and the needs of the appellant and his staff. As some 3 months have elapsed since the appeal was submitted and the amended compliance period will begin from the date of this decision, the appellant will effectively have had approximately 6 months in which to comply with the requirements of the notice. I am satisfied this should be sufficient. The ground (g) appeal succeeds accordingly.

Formal decision

5. The appeal on ground (g) is allowed and it is directed that the enforcement notice be varied under "TIME FOR COMPLIANCE" by the deletion of "one calendar month" and the substitution of "**three calendar months**". It is also directed under the powers of section 176(2) (a) of the amended 1990 Act that the words "after this notice takes effect" are added to the words "three months". Subject to this variation and correction, the enforcement notice is upheld.

K McEntee