



Appeal Decision

by Ken McEntee

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

Decision date: 19 October 2016

Appeal ref: APP/R3650/C/16/3152209 & 3152210

Land at Home Covert, Lower Ham Lane, Elstead, Surrey GU7 1LG

- The appeals are made under section 174 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991.
- The appeals are brought by Mr John Lewis and Mrs Joan Lewis against an enforcement notice issued by the Waverley Borough Council.
- The notice was issued on 10 May 2016.
- The breach of planning control as alleged in the notice is "Without planning permission, the erection of a dwelling house on the Land and located in the approximate position marked 'A' on the attached plan".
- The requirements of the notice are: "1. Remove the dwelling marked 'A' on the attached plan. Remove from the Land all materials resulting from compliance with Step 1 above".
- The period for compliance with the requirements of the notice is "**six months** after this notice takes effect".
- The appeals are proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeals are dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The basis of the appellants' case is that they require more time to comply with the notice as the occupier (the daughter of Mr John Lewis) of the unauthorised building would need more time to find alternative accommodation while at the same time assisting with the demolition and hold down a demanding job. They also contend that the occupier cannot move back into her own property as she has let it out and the tenancy agreement does not expire until 19 May 2017. They request the period for compliance to be extended to 12 months.
2. While I note the appellants' concerns, they have to be weighed against the stated harm to the surrounding area caused by the unauthorised development, which the appellants' assert has persisted since April 2012. I am also mindful that more than 3 months have elapsed since the appeal was submitted with enforcement action effectively suspended. Therefore, as the time to comply with the notice will begin again from the date of this decision, the occupier of the property will effectively have had some 9 months in which to seek out alternative accommodation, which will only be 1 month short of when the tenancy agreement expires on her own property. I consider this period to be both proportionate and

reasonable and achieves an appropriate balance between the need to bring the harm caused by the unauthorised development to an end and the need of its occupier to look for alternative accommodation. I also consider it gives ample time for the required works to be carried out, notwithstanding the occupier's personal circumstances. Therefore, in these circumstances, I see no reason to justify extending the compliance period further. The ground (g) appeal fails accordingly.

Formal decision

3. For the reasons given above, the appeals are dismissed and the enforcement notice is upheld.

K McEntee