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## Appeal Decision

Site visits made on 10 January & 7 February 2017

**by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)**

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

**Decision date: 9 February 2017**

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**Appeal Ref: APP/A1910/C/16/3147414 & 3147415**  
**4 Myrtle Cottages, Bulbourne Road, Tring, HP23 5QE**

- 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 1990 Act").
  - The appeal is made by Dawn Lucas and Paul Lucas ("the Appellants") against an Enforcement Notice issued by Dacorum Borough Council ("the Council").
  - The Enforcement Notice, numbered 4/01050/16/ENA, was issued on 9 March 2016.
  - The breach of planning control as alleged in the Enforcement Notice is without planning permission, the erection of a timber outbuilding and surrounding decking in the approximate position marked with a cross on the plan attached to the Enforcement Notice.
  - The requirements of the Enforcement Notice are: 1) Demolish / dismantle the timber outbuildings and remove any materials arising from the demolition / dismantling from the land. 2) Take up and remove from the land the decking. 3) Restore the land to its condition before the development took place.
  - The period for compliance with the requirements is three months.
  - The appeal is proceeding on the grounds set out in Section 174(2)(f) of the 1990 Act.
- Summary of Decision:** The Enforcement Notice is corrected, the appeal is dismissed, and the corrected Enforcement Notice upheld in the terms set out in the Formal Decision below.
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### Procedural Matters

1. The plan attached to the Enforcement Notice was not marked with a cross to show the approximate position of the timber outbuilding ("the Outbuilding"). I will substitute a plan for the one attached to the Enforcement Notice which includes the cross. No injustice arises from this because all the parties are aware of which timber outbuilding the Enforcement Notice relates to.
2. Paragraph 5 1. of the Enforcement Notice refers to "outbuildings". The Enforcement Notice is aimed at one "outbuilding". Therefore the Enforcement Notice should be corrected to refer to an "outbuilding". No injustice arises from this correction.
3. The Appeal Site is within the Green Belt and an Area of Outstanding Natural Beauty ("the AONB").

### Relevant Background Matters

4. In May 2013 the Council became aware that the timber platform on which the Outbuilding has been erected was in the course of being constructed. The Appellants believed that the Outbuilding would be permitted development. They informed the Council's Enforcement Officer what their plans were regarding the construction of the Outbuilding. The Enforcement Officer carried

- out a site visit in July 2013 and the Appellants explained that he informed them that what they were doing was fine and there was nothing to worry about.
5. In June 2014 a retrospective planning application was submitted for the Outbuilding. The Officer's Committee Report recommended that planning permission be granted for the Outbuilding.
  6. The Planning Application was refused by the Council on 6 October 2014 on the basis of harm to the neighbouring properties by reason of overlooking and resulting loss of privacy.
  7. An appeal was lodged against the refusal and was subsequently dismissed by way of an Appeal Decision dated 28 March 2015. The Inspector explained in her Appeal Decision that the Outbuilding:
    - a) Is in the style of a log cabin and is used by the Appellants' family and friends as a 'snug'.
    - b) Is about 6m in depth and just over 4m wide.
    - c) Has been built on a timber platform.
    - d) Is a new building.
    - e) Is inappropriate development which is, by definition, harmful to the Green Belt.
    - f) Is not intrinsically detrimental to the qualities of the AONB and there would be no harm to the AONB.
  8. Further, the Inspector explained that:
    - a) Provided screening of sufficient height was introduced there would be no overlooking of adjoining private outdoor space and privacy levels would be restored and this could be addressed through the imposition of a condition.
    - b) Substantial weight has to be attached to any harm to the Green Belt.
    - c) The other considerations reviewed in her Appeal Decision did not clearly outweigh the principal objection i.e. the harm to the Green Belt caused by inappropriate development.
    - d) The appeal should fail.
  9. There was no challenge made to the Inspector's Appeal Decision.

## **Reasons**

*Ground (f) that the steps required to comply with the requirements of the Enforcement Notice are excessive and lesser steps would overcome the objections*

10. Section 173 of the 1990 Act sets out what the contents and effect of an Enforcement Notice should be. Sub-section 4(a) explains what purposes the steps specified in an Enforcement Notice should achieve. In this case the steps specified seek to achieve the restoration of the land on which the Outbuilding had been erected to its condition before the breach took place.

11. Section 174 of the 1990 Act sets out the statutory code for appeals against Enforcement Notices. An appeal on Ground (f), in a case such as this, is limited to an argument that the steps specified in the Enforcement Notice exceed, as a matter of fact, what is necessary to restore the land to its condition before the breach took place.
12. In my view the requirements of this Enforcement Notice are entirely appropriate to achieve the objective of restoring the land to its condition before the breach took place and there are, in my assessment, no lesser steps that could be taken to achieve that objective.
13. I conclude that no good reason is advanced by the Appellants as to why the requirements of the Enforcement Notice exceed what is necessary to restore the land to its condition before the breach took place and, for the reasons explained above, this is the limited scope of a Ground (f) appeal in a case such as this. This ground of appeal must therefore fail.
14. Several of the arguments put forward by the Appellants are only relevant if there was a Ground (a) appeal before me. I am also aware that the Appellants believed that the Outbuilding was permitted development at the time it was erected and that they were advised by the Council's Enforcement Officer that what they were doing was fine. Had the Appellants known that planning permission was required that permission would have been sought before they spent a considerable amount of money on the acquisition of the Outbuilding. The planning merits of retaining the Outbuilding were considered by the Inspector who determined the last appeal and she also considered the issues regarding the Appellants proceeding with the construction of the Outbuilding in good faith and the inaccurate advice they were given, but as explained above, she concluded that the arguments for retention of the Outbuilding did not clearly outweigh the harm caused to the Green Belt by virtue of the Outbuilding being the inappropriate development.
15. The previous Inspector acknowledged that the privacy issues for neighbouring occupiers could be addressed by a screen along the boundary. Accordingly, that was not the reason for dismissing the Appellants' last appeal – as explained above their appeal was dismissed because of the harm caused by Outbuilding to the Green Belt.
16. The Appellants have suggested that the Outbuilding could be lowered by reducing the height of the decking on which it stands. However, the Outbuilding would still remain and would continue to be inappropriate development in the Green Belt.

#### Conclusion on Ground (f)

17. For the reasons given above I consider that the appeal should not succeed.

#### **Formal Decision**

18. The Enforcement Notice is corrected by:
  - a) The deletion of the word "outbuildings" and the substitution of the word "outbuilding" in paragraph 5 1.
  - b) The substitution of the plan annexed to this Appeal Decision for the plan attached to the Enforcement Notice.

Subject to these corrections the appeal is dismissed and the Enforcement Notice is upheld.

*Tim Belcher*

**Inspector**



## Plan

This is the plan referred to in my Appeal Decision dated 9 February 2017

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