



Appeal Decision

by Ken McEntee

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

Decision date: 18TH May 2017

Appeal ref: APP/U2615/C/16/3162094

Land at 6 Fairway Lakes Village, Caldecott Hall, Fritton, Great Yarmouth, Norfolk, NR31 9EY

- 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 Simon Thompson against an enforcement notice issued by the Great Yarmouth Borough Council.
- The notice was issued on 23 September 2016.
- The breach of planning control as alleged in the notice is as described in the annex to this letter.
- The requirement of the notice is "Cease using the Property contrary to condition 5 of the planning permission 06/96/0854/F dated 22 December 1997 by ensuring the Property is not used as the sole or main residence for its occupiers".
- The period for compliance with the requirements of the notice is "12 calendar months from the date that this notice takes effect".
- 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 dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The appellant requests that the compliance period be extended by 18-24 months in order to allow more time to sell the appeal property and to find alternative accommodation. He points out he has only had 3 viewings since he put the property on the market and contends that having to move could affect his partner's employment as it requires her to live close by. I have sympathy with the situation the appellant finds himself in and fully appreciate his concerns. However, I am also mindful that some 7 months have elapsed since the appeal was submitted with enforcement action effectively suspended. Therefore, as the 12 month compliance period will begin again from the date of this decision, the appellant will have had some 19 months in which to comply with the requirements of the notice. 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 use to an end and the need of the appellant to sell the appeal property and to seek out alternative accommodation.

2. Nevertheless, should the appellant experience any genuine difficulties in this regard, the Council have the power, under section 173A (1) (b) of the amended 1990 Act, to extend the compliance period themselves, if they see fit. Whilst this is entirely a matter for the Council's discretion, it would be open to the appellant to ask for a further short extension of time, should that prove necessary.
3. Therefore, in the circumstances, I am not satisfied there is good reason to extend the compliance period further and consider the 12 months given should be sufficient to meet the requirements of the notice. The ground (g) appeal fails accordingly.

Formal decision

4. For the reasons given above, the appeal is dismissed and the enforcement notice is upheld.

K McEntee

Annex to decision

THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

"On 22 December 1997 planning permission was granted for the conversion of existing buildings, construction of new buildings associated with existing uses to create golf, equestrian & leisure development & ancillary facilities (06/96/0854/F), subject to conditions. One of those conditions was that "none of the residential units within the Lodge Park shall be occupied as the sole or main residence of any individual or family. The reason for the condition is:- The application site is within an area of the Borough where the Local Planning Authority intend that new dwellings whether permanent or a temporary nature will only be used for holiday accommodation". It appears to the Council that the condition has not been complied with because the Property is being occupied as the sole or main residence".