



Appeal Decision

by Ken McEntee

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

Decision date: 18/07/2017

Appeal ref: APP/Z1775/C/16/3164353

Land at Chambers Restaurant, 27 Landport Terrace, Portsmouth, PO1 2RG

- 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 Chambers Restaurant against an enforcement notice issued by Portsmouth City Council.
- The notice was issued on 31 October 2016.
- The breach of planning control as alleged in the notice is "Without planning permission, the erection of a vertical timber fence on the north and south walls at first floor level of the Land".
- The requirements of the notice are "5.1 Remove the vertical timber fence on the north and south walls at first floor level that was refused retrospective planning permission under planning reference 15/01766/PLAREG from the land shown marked with 2 blue lines on the attached plan and return the first floor to its original appearance before the unauthorised works were carried out. 5.2 Remove from the land all associated building materials and detritus from compliance with requirement 5.1 above".
- The period for compliance with the requirements of the notice is "2 months from the date this notice takes effect".
- The appeal is 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 appeal is dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. Most of the arguments put forward by the appellant concern why he considers the unauthorised fence should be retained as it does not cause substantial harm to the Conservation Area. However, for the avoidance of doubt, as the relevant fee was not paid there is no ground (a) appeal before me and consequently the planning merits of the development are not to be considered. Therefore, the stated harm caused to the surrounding area is taken as read as it has not been challenged by way of a ground (a) appeal. As only ground (g) has been appealed, it is not before me to consider whether or not the fence can be retained – all that is before me to consider is whether or not the compliance period allows enough time for the fence to be removed.
2. With that in mind, the appellant requests that the compliance period be extended to October 2017, which would cover the peak period for the restaurant business

and the fence reduces noise disturbance for its customers on the first floor terrace. However, while I understand the appellant's concerns this has to be weighed against the stated harm to The Terraces Conservation Area which has persisted for at least 12 months. I am also mindful that some 7 months have elapsed since the appeal was submitted with enforcement action effectively suspended. Therefore, as the compliance period will begin again from the date of this decision, the appellant will almost have had the time period he desires to comply with the requirements of the notice. In these circumstances I cannot justify extending the period further and allowing the harm to continue.

3. Therefore, I am not satisfied there is good reason to extend the compliance period further and I consider the 2 months given is 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