
Appeal Decision

Site visit made on 16 August 2017

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

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

Decision date: 23 August 2017

Appeal Ref: APP/G5180/C/16/3160785

Land at Walden's Fisheries, Walden's Farm, Crockenhill Road, Orpington, BR5 4ER

- 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 made by Michael Buckley against an enforcement notice issued by the Council of the London Borough of Bromley.
- The enforcement notice, Ref DC/14/00232/OPDEV was issued on 18 August 2016.
- The breach of planning control as alleged in the notice is without planning permission, the construction of a single storey building situated within Plot 803 at Land at Walden's Fisheries, which is situated within the Green Belt.
- The requirements of the notice are:
 1. Remove the unauthorised building from the land.
 2. Remove all associated material in connection with (1) above from the land.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

Procedural Matters

1. The notice gives postcode BR5 4ER for the appeal site whereas on the appeal form the Appellant says it is BR8 8EP. Both postcodes refer to places along Crockenhill Road but neither of these are Walden's Farm which lies approximately equidistant between the two. I do not know which, if either, is correct but I am satisfied that the Appellant knows the land to which the notice is addressed and that no injustice has been caused to him by what may be an incorrect postcode.
2. It was not clear from the appeal form whether the Appellant made an appeal on ground (a) or not. However, although the Appellant was advised by the Inspectorate that if he intended to make an appeal on ground (a) a fee had to be paid no such fee had been paid within the specified period and therefore any appeal on ground (a) which may have been made and any application for planning permission deemed to have been made under s.177(5) of the Act as amended have lapsed.
3. There is a suggestion within the Appellant's ground (c) appeal that there is also an appeal on ground (d). I noted on my visit that works had been done to the

building since the photographs attached to the Council's statement¹ were taken, in that, among other things, the single storey building had a roof. However, it was by no means substantially complete. In order to succeed on a ground (d) appeal the Appellant has to show that the building was substantially complete on or before four years from the date the notice was issued. In the circumstances this cannot be the case and therefore any appeal on ground (d) would have failed.

The appeal on ground (c)

4. In an appeal on ground (c) the Appellant has to prove that the matters alleged in the notice do not constitute a breach of planning control.
5. The Appellant has not provided any formal grounds of appeal or statement. On the appeal form he has written that he 'continued building barn after the fire'. On a copy of the notice he has written 'the construction has been ongoing since April 1991 when the original barn was destroyed by fire'. However, in a letter dated 2 October 2016 to the Council he writes that the barn was burnt down in late 1989 and since then he has been rebuilding it, using original materials where possible; although planning officers had visited him many times he writes that it was never suggested that he needed planning permission. In a letter to the Inspectorate dated 21 March 2017 he writes that the size of the reconstructed barn is smaller than the original barn and half the original height.
6. There is no right to erect a replacement building following the demolition or destruction of an existing building without the need for planning permission. The construction of the single storey building that is the subject of the notice is development because it is a building operation within the meaning of s.55 of the 1990 Act and, subject to a number of specified exceptions, planning permission is required for the carrying out of any development of land². In this appeal no application for planning permission has been made and thus none has been granted. The construction of the single storey building is therefore a breach of planning control as alleged.
7. The appeal on ground (c) fails.

Conclusions

8. For the reasons given above I conclude that the appeal should not succeed and I shall uphold the enforcement notice.

Decision

9. The appeal is dismissed and the enforcement notice is upheld.

Gloria McFarlane

Inspector

¹ Appendix 1

² S.57 of the 1990 Act