



Appeal Decision

Site visit made on 20 August 2019

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 19 September 2019

Appeal Ref: APP/P1425/C/18/3205510

The Volunteer Public House, 12 Eastgate Street, Lewes BN7 2LP

- 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 Mrs W Seals against an enforcement notice issued by Lewes District Council.
 - The enforcement notice was issued on 21 May 2018.
 - The breach of planning control as alleged in the notice is the erection of an unauthorised freestanding timber smoking shelter to the front courtyard.
 - The requirements of the notice are (i) to remove the unauthorised freestanding smoking shelter and (ii) remove all materials resulting in the removal of the unauthorised freestanding smoking shelter.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Reasons

Ground (d)

2. There is limited information provided by the appellant to support the ground (d) appeal. It is for the appellant to show on the balance of probability the case being made. The appellant asserts that there has been this sort of structure in place for excess of 4 years and since the beginning of the smoking ban in July of 2007. However, for a structure to have obtained immunity from enforcement under the 4 year rule, means that the actual structure has to have stayed in place. It is not a matter of it being the same 'sort' of structure. The structure in place has not, on the balance of probability, been demonstrated to have been in place for a continuous period of 4 years. The appeal on ground (d) fails.

Ground (a)

3. The matter of planning permission has been very recently considered at appeal in relation to appeal ref APP/Y9507/W/17/3181633. The structure is an alien and incongruous feature in front of the building and I have no reason to disagree with the previous decision. The appeal on ground (a) fails.

Graham Dudley

Planning Inspector

