

Appeal Decision

by Ken McEntee

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

Decision date: 3 October 2019

Appeal ref: APP/F1040/C/19/3226016

Land at 11 The Green, Willington, Derbyshire, DE65 6BP

- 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 Patrick Hammond (Bespoke Commercial Property Ltd) against an enforcement notice issued by South Derbyshire District Council.
- The notice was issued on 6 March 2019.
- The breach of planning control as alleged in the notice is "Without planning permission, the alteration of a sun canopy by enclosing it with full height glazing".
- The requirement of the notice is: "Reinstate the sun canopy in accordance with drawing number 23 B, received on 15 December 2017 under planning permission reference 9/2017/1357, a copy of which is enclosed, by permanently removing the full height glazing".
- The period for compliance with the requirements of the notice is: 60 days beginning with the day on which 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. The basis of the appellants' case is that more time is required to comply with the notice as it will take 6 months to reinstate the canopy permitted. In addition, they contend that to remove the existing canopy in the summer months would have serious implications on the viability of the public house. They therefore request that the compliance period be extended to 9 months.
2. However, I note that some 6 months have elapsed since the appeal was submitted with enforcement action effectively suspended. As the compliance period will begin again from the date of this decision, the appellants will effectively have had the 9 months they desire to comply with the requirements of the notice.
3. In these circumstances, I see no good reason to extend the compliance period further and consider the 60 days given in the notice to be adequate. The ground (g) appeal fails accordingly.

Formal Decision

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

K McEntee