
Appeal Decision

by Mr Keri Williams BA, MA, MRTPI

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

Decision date: 10 October 2019

Appeal Ref: APP/K3605/C/19/3226615

Land at 7 Tinmans Row, Downside Common Road, Cobham, KT11 3NH

- 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 Mr A McVicar of Alchemy Capital against an enforcement notice issued by Elmbridge Borough Council.
 - The enforcement notice, ref: INV/2017/0369, was issued on 12 March 2019.
 - The breaches of planning control as alleged in the notice are that:
 - i) A gate has been constructed within the curtilage of a listed building;
 - ii) A shed has been constructed within the curtilage of a listed building and forward of the principal elevation.
 - The requirements of the notice are to:
 - 1) Reduce the height of the front gate and related supporting posts to no higher than 1 metre from ground level, or permanently remove the gate and relating support posts from the land.
 - 2) Permanently remove from the land the shed located forward of the principal elevation.
 - 3) Permanently remove any resultant waste from the land in association with complying with requirements (1) and (2).
 - The period for compliance with the requirements is 1 calendar month.
 - The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed. The enforcement notice is upheld.

Main Issues

2. The main issue is whether the period of 1 calendar month given for compliance is unreasonably short.

Reasons

3. No.7 Tinmans Row is a terraced house. It is part of a group of houses, nos. 1-8, which together comprise a Grade II listed building. The shed which is the subject of the notice was sited forward of the front elevation of the house. The gates are to the front of the property, forming part of its front boundary.
4. The appeal is limited to ground (g), that the period given for compliance is too short. Mr McVicar explains that the shed has now been moved. The gates remain in place. Mr McVicar does not specify any period longer than 1 calendar month which he considers necessary, although he says that a reasonable timeline is needed.

5. The shed and the gates are both small scale developments. The measures required by the enforcement notice would not involve works of any particular complexity or need to be carried out over a long period. Indeed, Mr McVicar refers to works to move the shed having been carried out in half a day. In a letter of 10 April 2019 Mr McVicar also alludes to ongoing medical conditions and the need for related hospital tests and medical appointments. It has not been established that these circumstances would necessarily prevent compliance with the enforcement notice or that they are likely to change after any specified longer period.
6. Mr McVicar cites other matters, including the behaviour of the Council in investigating the breaches of planning control and in taking enforcement action. Although these matters are clearly of concern to Mr McVicar, they do not weigh in his favour in this decision. It addresses only the ground on which the appeal was made, that being the reasonableness or otherwise of the period given for compliance with the enforcement notice requirements.

Conclusion

7. It is concluded that the period of 1 calendar month given for compliance with the enforcement notice requirements is not unreasonably short. The appeal should not succeed. The enforcement notice should be upheld.

K Williams

INSPECTOR