
Appeal Decision

Site visit made on 1 October 2019

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2019

Appeal Ref: APP/V2255/C/19/3225341

Murre, Conyer Quay, Conyer ME9 9HR

- 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 Act").
- The appeal is made by Mr James Bell-Reeves against an enforcement notice issued by Swale Borough Council.
- The enforcement notice was issued on 19 March 2019.
- The breach of planning control as alleged in the notice is without planning permission a carport and summer house have been erected approximate positions hatched black on the attached plan labelled 1 and 2. In the opinion of the Council these buildings would require planning permission, which has not been granted.
- The requirements of the notice are:
 - (i) Remove the car port and all associated materials shown in its approximate location labelled 1 and hatched black on the attached plan
 - (ii) Remove the summer house and all associated materials shown in its approximate location labelled 2 and hatched black on the attached plan.
 - (iii) Return the Land back to its original form prior to the erection of the carport shown in the approximate location hatched black and labelled as 1 on the attached plan
 - (iv) Return the Land back to its original form prior to the erection of the summer house shown in the approximate location hatched black and labelled as 2 on the attached plan
 - (v) Remove all materials and debris caused in complying with condition (i) and (ii) above from the Land.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

Preliminary matters

1. The breach of planning control alleged at Section 3 of the notice contains a typographical error in missing the words "in the" between "erected" and "approximate positions". It is clear what is intended in the description of the breach, so no party would be substantially prejudiced by correcting this error.

The Appeal on Ground (c)

2. An appeal on this ground is that "those matters" (the matters stated in the alleged breach of planning control) do not constitute a breach of planning control. There is no dispute that the carport and summer house amount to development as defined in section 55 of the Act and that as such they require

planning permission. The appellant contends that these buildings benefit from planning permission by virtue of having been developed in accordance with Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

3. I understand that the appellant lives on Murre, a houseboat that is kept at Conyer Quay. Adjacent to the quay is an area of land associated with the boat and I understand there are a number of similar houseboats in the vicinity, each with their own private area of quayside, some of which contain buildings. As such, the appellant considers the houseboat to be his dwelling and the adjacent area of land, his garden.
4. The rights under the GPDO referred to above relate to the provision of outbuildings incidental to the enjoyment of a dwellinghouse. However, a dwellinghouse would comprise a building in use as a dwelling. Houseboats normally float and are only attached to the ground by ropes that would allow them to be easily moved. As such, their degree of attachment to the ground and permanence are not sufficient to be defined as buildings. On the balance of all the evidence before me, I find that to be the case here. Consequently, although Murre may be residentially occupied, in planning terms it is not a dwellinghouse. As a result, the land on which the car port and summer house have been constructed is not within the curtilage of a dwellinghouse.
5. The rights conferred by Class E, Part 1, Schedule 2 of the GPDO are only available to land within the curtilage of dwellinghouses such that they are not available to Murre. Since no planning permission has been granted for the development it thereby constitutes a breach of planning control.
6. For these reasons, I conclude that the appeal under ground (c) must fail.

The Appeal on Ground (f)

7. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements seek the removal of the carport and summer house and return the land to its original form in order to remedy the breach of planning control.
8. I have concluded above that the buildings do not benefit from planning permission granted by the GPDO. In the absence of an appeal under ground (a) I am not able to consider the effect of the buildings on the character and street scene of the area. As such, the requirements of the notice are necessary to remedy the breach of planning control.
9. For these reasons, I conclude that the appeal under ground (f) should fail.

The Appeal on Ground (g)

10. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed.
11. The appellant suggests that a period of 9 months would be necessary to comply with the notice. Although I note the particular circumstances of the appellant, he is legally obliged to comply with the requirements of the notice.

Taking account of the evidence presented, three months is not an unreasonably short period of time in which to carry out the necessary works. Consequently, I conclude that it is not appropriate to extend the period for compliance.

12. For these reasons, I conclude that the appeal under ground (g) should fail.

Formal Decision

13. It is directed that the enforcement notice is corrected in Section 3 by inserting the words "in the" between "erected" and "approximate positions".

14. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

AJ Steen

INSPECTOR