



Appeal Decision

Site visit made on 20 January 2020

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 7 February 2020

Appeal Ref: APP/P1615/C/19/3236223

The property known as The Annexe, Harts Farm, Chapel Lane, Redmarley, Gloucester GL19 3JF

- 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 Jacob DeWit against an enforcement notice issued by Forest of Dean District Council.
- The enforcement notice was issued on 30 July 2019.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the annex *[sic]* as a separate residential dwelling.
- The requirements of the notice are: permanently cease the use of the annexe as a separate residential unit.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(b) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary Decision: The enforcement notice is quashed.

The Enforcement Notice

1. An enforcement notice must, by virtue of Regulation 4(c) of the Town and Country Planning (Enforcement Notices and Appeals)(England) Regulations 2002, specify the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise.
2. The appellant has identified that the red line on the plan attached to the enforcement notice does not correctly the land which is intended to be the subject of the notice. This is on the basis that the red line does not include the part of the annexe which accommodates the kitchen and shower room. The appellant's ground (b) appeal is premised, in part, on this basis.
3. Under section 176(1) of the Town and Country Planning Act 1990 as amended (1990 Act), wide powers are available to me to correct any defect, error or misdescription in the enforcement notice, or to vary the terms of the enforcement notice. This is provided that the correction or variation would not cause any injustice to the appellant or the local planning authority.
4. The Council acknowledges the error regarding the notice plan and has submitted a revised plan and suggests that this can be substituted without causing injustice to any party. The appellant has indicated that were such a revised plan to be substituted, he should be given the opportunity to make an appeal on ground (a).

5. However, as the fee payable in respect of an appeal on ground (a) and related deemed planning application has not been paid within the specified period, this ground of appeal has lapsed and cannot be resurrected.
6. On this basis, I consider that if I were to substitute the revised plan as proposed by the Council, this would result in injustice to the appellant as he would not be able to submit an appeal on ground (a).
7. The appellant has identified some other, more minor, errors within the enforcement notice but I am in any event quashing the notice in view of the error in relation to the plan.

Conclusion

8. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the land which is the subject of the notice. It is not open to me to correct the error by the substitution of a new plan in accordance with my powers under section 176(1)(a) of the 1990 Act as amended, since injustice would be caused were I to do so.
9. The enforcement notice is invalid and will be quashed. In these circumstances, the appeal on the grounds set out in section 174(2)(b) and (g) of the 1990 Act do not fall to be considered.

Formal Decision

10. The Enforcement Notice is quashed.

V Bond

INSPECTOR