
Appeal Decision

by Ken McEntee

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

Decision date: 12 February 2020

Appeal ref: APP/C1760/C/19/3239687

Land at Garden Close, Walled Meadow, Andover, Hants, SP10 2RU

- 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 Berkley Court (Walled Gardens) Management Company NO.2 Ltd against an enforcement notice issued by Test Valley Borough Council.
- The notice was issued on 20 September 2019.
- The breach of planning control as alleged in the notice is "Without planning permission, the erection of a building with hardstanding on the land shown edged red, at the location shown hatched blue on the attached plan".
- The requirements of the notice are: "a) Demolish the building. B) Remove from the land all materials resulting from compliance with (a) above. C) Pull out the hardstanding from the ground and remove all resulting materials from the land. D) Lay three inches of top soil over the former hardstanding area and re-seed with grass."
- The period for compliance with the requirements of the notice is: "Steps (a) and (b) to be complied within Two (2) months after this Notice takes effect. Step (c) and (d) to be complied within Twelve (12) months after 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 main basis of the appellants' case is that they would like more time to comply with the notice in order to await the outcome of a submitted application for a purpose-built bin store. They therefore request that the period for compliance with steps (a) and (b) be extended to 6 months. I note that since the appeal was submitted planning permission has been granted for the alternative bin store. However, as the Council point out, this is a separate matter to the subject of the enforcement notice and does not affect my determination of this appeal. With that in mind, I note that some 4 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 6 months they desire in which to comply with the requirements of the notice. In these circumstances, I see no good reason to extend the compliance period further and consider the time periods given to be adequate. The ground (g) appeal fails accordingly.
2. It will be a matter for the Council to decide whether or not the new planning permission affects any of the requirements of the enforcement notice.

Formal decision

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

K McEntee