



Appeal Decisions

Site visit made on 17 February 2020

by K R Saward Solicitor

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Refs: APP/W1525/C/19/3229882 & 3229883

River View, Private Road, Margaretting, Chelmsford, Essex CM2 8TH

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mrs Rebecca Rambin and Mr Brian Rambin against an enforcement notice issued by Chelmsford City Council.
 - The enforcement notice was issued on 26 April 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a building (shown outlined in blue at the approximate location on the plan attached to the notice).
 - The requirements of the notice are:
 - i. Demolish the building shown outlined in blue at the approximate location on the plan attached to the notice.
 - ii. Remove from the land all materials resulting from actions taken at step (i).
 - The period for compliance with the requirements is 3 months.
 - 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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Decisions

1. It is directed that the enforcement notice be varied by the deletion of 3 months and the substitution of 9 months as the period for compliance. Subject to this variation, the enforcement notice is upheld.

Procedural Matters

2. Originally appeals were also brought of grounds (a) and (c). Those appeals were subsequently withdrawn. Both appeals now proceed on ground (g) only.
3. As there is no longer a ground (a) appeal and deemed planning application no submissions on the planning merits fall to be considered.

Reasons

4. The ground (g) appeal is that the time given to comply with the requirements of the notice falls short of what should reasonably be allowed. The enforcement notice is directed at a building in which the appellants had intended to reside. Instead of the 3 months afforded by the notice, the appellants seek a compliance period of 18 months.
5. The effect of the appeal is to stop the clock. The notice only takes effect on the date of this appeal decision which is when the compliance period starts. The Council draws my attention to the fact that 3 months has already elapsed since the notice was issued.

6. However, it was only when the appellants withdrew their other grounds of appeal in early January 2020 that they will have known for certain that they must remove the building. Therefore, the period that elapsed before then has no bearing on the reasonableness of the time afforded.
7. The building is in the Green Belt where development is strictly controlled. The appellants do not claim that they would be rendered homeless. There is an existing caravan on the appeal site in which they live.
8. The appellants had believed the structure fell within the definition of a twin unit caravan, but evidence has emerged that it does not. They are now engaged in litigation with the builder and designer of the unit which means they are unable to ask the builders to remove it. It is anticipated that the costs of removal would be in the region of £30,000 based on advice from a specialist contractor. Quotes are being secured, but none are provided. Whatever the precise sum, the appellants say it is financially impossible to comply with the enforcement notice within the time limit given having spent their resources on the building.
9. Whilst I am sympathetic to the financial pressure, stress and anxiety which the appellants and their family are under, there is a breach of planning control which needs to be addressed without unreasonable delay. Eighteen months is sought to allow time for the litigation to be finalised, but this period is far too long to allow the current breach to continue.
10. Having seen the building, it is a substantial structure built on brick supports. It will not be quick to dismantle and is likely to require specialist equipment. The task may be more difficult due to the narrowness and condition of Private Road restricting access by large vehicles and equipment.
11. Taking all the circumstances into account, it seems to me that 9 months would be a reasonable and proportionate period of time. It strikes the right balance between affording sufficient time to put in place financial and other arrangements to enable the building to be removed whilst also addressing the harm arising to the Green Belt in a timely manner. The notice shall be varied accordingly.
12. To that extent, the ground (g) appeal succeeds.

KR Seward

INSPECTOR