



Appeal Decision

Site visit made on 5 January 2021

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th February 2021

Appeal Ref: APP/J1535/C/20/3258227

Land at 29 Orchard Gardens, Waltham Abbey, Essex EN9 1RS

- 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 Mustafa Soydag against an enforcement notice issued by Epping Forest District Council.
 - The enforcement notice, numbered BSS/EB/CM/1596, was issued on 16 July 2020.
 - The breach of planning control as alleged in the notice is, without planning permission, the unauthorised change of use of the land from a residential use to a mixed use of residential and cattery business.
 - The requirement of the notice is to cease the use of the land as a cattery business.
 - The period for compliance with the requirement is within 2 months after the notice takes effect.
 - 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.
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Decision

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

Preliminary matters

2. While it has been questioned whether a cattery is appropriate to the area, the appeal on ground (a), that planning permission should be granted, has lapsed and the planning merits of the use are therefore not before me.
3. Reference has been made to operational development comprising an outbuilding and a garage, but this is the subject of a separate enforcement notice that has not been appealed and is now in effect.
4. While concerns have been expressed about parking on Audley Gardens, no evidence that this arises from the alleged cattery business, or proves that it exists, has been submitted.

The appeal on ground (b)

5. For an appeal to succeed on this ground the appellant must demonstrate that, on the balance of probability, the breach of planning control alleged in the notice had not occurred by the date when it was issued.

6. The appellant states that he does not board other people's cats and that those kept on the land are his family's pets, and therefore a cattery business does not exist. However, an everyday definition of a cattery includes a place where cats are bred and therefore the absence of boarding is not decisive.
7. A witness statement provided by the Council includes evidence that a business owned by the appellant had been registered as a cattery. It also records that cats kept on the land had been advertised for sale and had been bought from the appellant. A nearby resident has reported being told by the appellant that he was breeding cats for sale.
8. There were 9 cats, of 2 breeds, housed in pens when I visited the site and the appellant advised that greater numbers had been kept in the pens at other times. This and the evidence provided by the Council and the resident indicate that a cattery business, albeit without boarding, has operated on the land.
9. Taking all the foregoing into consideration, it has not been demonstrated that, on the balance of probability, a cattery business did not exist on the land on the date the notice was issued. Accordingly, the appeal on ground (b) must fail.

The appeal on ground (g)

10. While the appellant has cited difficulties in arranging for the brickwork in the outbuilding to be improved, that is not a requirement of the notice. No evidence that 2 months is an unreasonable period to cease the use of the land as a cattery business has been presented. Accordingly, the appeal on ground (g) must fail.

Conclusion

11. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Mark Harbottle

INSPECTOR