



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 11 March 2022

Appeal ref: APP/N4720/C/21/3287154

Land at The Kouzina, 20 New Market, Otley, LS21 3AE

- 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 Mr Mehran Manjilli against an enforcement notice issued by Leeds City Council.
- The notice was issued on 11 November 2021.
- The breach of planning control as alleged in the notice is "Without planning permission the material change of use of a retail premises (Class E) to a hot food takeaway (Sui Generis) and the unauthorised development to facilitate the use consisting of a replacement upvc shopfront and an external galvanised extractor fan/chimney located on the roof".
- The requirements of the notice are: Step 1 Cease the Use of the property as a Hot Food Takeaway (Sui Generis Use). Step 2 Remove the unauthorised upvc windows and door from the front of the premises and any associated materials being careful not to damage any of the existing shopfront and make good any damage or holes in the original stonework using a mortar and finish to match the texture of the original stonework. "Reinstate the shopfront that existed prior to the unauthorised development using hard wood and replicating the design and paint with exterior wood primer, exterior undercoat and two coats of exterior gloss, the finished colour to be cream, black or red. A photo of the shopfront is attached for your perusal and marked Photo 1. Step 3 Remove the external extractor fan/chimney from the roof and make good the roof with replacement tiles of the same materials and texture as the existing roof".
- The time period for compliance with Step 1 is "Within 7 days of the notice coming into effect".
- The time period for compliance with Steps 2 and 3 is "Within 6 months of the notice coming into 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. I note that the basis of the appellant's appeal is that he feels the time for compliance is unreasonable in order to explore other options. However, the purpose of an appeal on ground (g) is to demonstrate that the time for compliance is too short to comply with the requirements of the notice; not in order to have more time to consider other options. I am also mindful that more than 3 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 appellant will effectively have had this period to comply with Step 1 of the notice and more than 9 months to comply with Steps 2 and 3. In these circumstances, there does not appear to be any good reason to justify extending the compliance period further and the stated harm caused by the unauthorised

use should be brought to an end as soon as possible. The ground (g) appeal fails accordingly.

Formal decision

2. For the reasons given above, the appeal is dismissed and the enforcement notice is upheld without variation.

K McEntee