



Appeal Decision

Site visit made on 30 August 2023

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th SEPTEMBER 2023

Appeal Ref: APP/G2245/C/22/3298418

Shiraz Eden, Tinkerpot Lane, West Kingsdown, Kent TN15 6AD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Mr T.J. Roberts against an enforcement notice issued by Sevenoaks District Council.
 - The notice was issued on 30 March 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission the unauthorised operational development of a two storey outbuilding.
 - The requirements of the notice are: Demolish the unauthorised outbuilding shown edged blue on the attached plan; Remove all resultant materials from the land.
 - The period for compliance with the requirements is six months
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.
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Ground (f)

1. To succeed under this ground of appeal the appellant would need to demonstrate that the steps required by the enforcement notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by the matters stated in the notice or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
2. The purpose of the notice is to remedy the breach of planning control by requiring its demolition and all resultant materials to be removed from the land. There are no lesser steps which would achieve this purpose.
3. The appellant has claimed that it would be more appropriate and reasonable for the notice to be varied to allow either the reconstruction of former buildings at the appeal site, or to allow the existing building to be modified to bring it in-line with the Council's Green Belt policies. Limited details have been provided of how the existing building could be modified and I am unconvinced that it would be possible to carry out such works without creating a substantially different building. The evidence indicates that the demolition of the former buildings referred to by the appellant and the breach of planning control the subject of the notice were carried out as separate acts of development.
4. I have been referred to caselaw¹, where the Court of Appeal held that the power to allow an appeal on ground (f) is not a power to grant planning permission. There is no scope to vary the notice to allow the appellant to reconstruct any other buildings which may have previously existed.
5. On complying with the notice, the appellant would not be placed in a worse position than before the breach of planning control took place because the notice only requires the breach of planning control to be remedied. The

¹ *Ioannou v SSCLG & Enfield LBC* [2014] EWCA Civ 1432

appellant's previous decisions to demolish any other buildings at the appeal site are separate matters.

6. The appellant will remain free to apply for planning permission to erect a new outbuilding and there is no need for this to be made a requirement of the notice. The steps required by the notice to be taken do not exceed what is necessary to remedy the breach of planning control.
7. The appeal under ground (f) therefore fails.

Ground (g)

8. To succeed under this ground of appeal the appellant would need to demonstrate that the period specified in the notice for its requirements to be carried out falls short of what should reasonably be allowed.
9. The enforcement notice provides 6 months for its requirements to be complied with. The appellant has claimed that this should be varied to 12 months to provide sufficient time for one of two options to followed. In one option, the unauthorised building would be used as temporary residential accommodation while works for a replacement dwelling are completed at the appeal site. In the other option, plans for a replacement/amended outbuilding would be prepared and submitted to the Council as part of a planning application, and those works would then be carried out.
10. I saw during my site visit that works on the replacement dwelling have made significant progress at the appeal site since the submission of the appellant's Statement of Case in May 2022. The appellant's breakdown of the anticipated time required to complete the second option described above amounts to a total of 7 months.
11. There is a lack of detailed reasoning to explain why there may be a need for an outbuilding at the appeal site in addition to other buildings and why any period longer than 6 months would be reasonable to comply with the enforcement notice. I therefore consider a period of 6 months to comply with the requirements of the notice does not fall short of what should reasonably be allowed.
12. The appeal under ground (f) fails.

Conclusion

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

Formal Decision

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

L Douglas

INSPECTOR