



Appeal Decision

Site visit made on 13 September 2023

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19TH SEPTEMBER 2023

Appeal Ref: APP/K0235/C/21/3286486

Land known as Yew Tree Cottage, Honeydon, Bedford, Bedfordshire MK44 2LP

- 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 S Chapman against an enforcement notice issued by Bedford Borough Council.
 - The enforcement notice, numbered 19/00013/UNDEV, was issued on 6 October 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey recreational and storage building.
 - The requirements of the notice are i) remove the outbuilding from the land and ii) remove all materials and waste resulting from i) from the land.
 - The period for compliance with the requirements is respectively i) three months and ii) six months.
 - The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a single storey recreational and storage building on land at Yew Tree Cottage, Honeydon, Bedford, Bedfordshire, MK44 2LP, subject to the following conditions: -
 - i) The outbuilding hereby permitted shall be used only for domestic purposes ancillary to the enjoyment of the main dwellinghouse known as Yew Tree Cottage, Honeydon, Bedford, Bedfordshire, MK44 2LP, and not for any other purpose.
 - ii) No kitchen or bathroom facilities shall be installed into the outbuilding at any time.

Ground (a) appeal – Main Issue

2. An appeal on ground (a) of s174 of the Act is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.

3. I have considered the reasons for issuing the notice and the main issue is whether by reason of the design, layout and size of the outbuilding it would be tantamount to the erection of a dwelling in the countryside, and, if so, whether this would be an inappropriate and harmful form of development having regard to development plan policies.

Reasoning

4. The appeal relates to an outbuilding in the garden area of Yew Tree Cottage. It is well screened from public view given the existence of mature boundary landscaping.
5. An appeal¹ made under s.78 of the Act was considered for the same outbuilding on 9 August 2021 by another Inspector. In considering that appeal, the Inspector's only main issue related to whether the outbuilding was tantamount to a separate dwelling. At this point in time, the Inspector considered the size of the building, its physical separation from the main dwellinghouse on the site and indicated that it '*contains several separate rooms including a shower room and had a sizeable kitchen area*'. The Inspector also commented that '*the building was used to provide accommodation for a family member with medical needs. It is no longer required for that purpose and is now in use for domestic storage*'.
6. The previous Inspector acknowledged that the outbuilding was positioned within a substantial garden and its appearance was akin to a domestic outbuilding. As a matter of fact and degree, the Inspector concluded that the building was tantamount to a separate dwellinghouse and there was therefore conflict with policies 7S, 28S and 29 the adopted 2020 Bedford Local Plan 2030 (LP).
7. The appellant seeks to retain the same building as dismissed recently on appeal, but on the basis that they remove its kitchen and bathroom. I was able to see on my site visit that the kitchen and bathroom had been removed from the outbuilding.
8. Like the previous Inspector, I also find that the building has an appearance which is akin to a domestic outbuilding. It is a large building, but it is nonetheless positioned within a large plot and is well screened from public view given mature boundary landscaping. In this regard, I find that the development accords suitably with the design and countryside protection requirements of policies 7S, 28S, 29 and 66 of the LP.
9. While the evidence is that the appellant has previously used the building as a residential annexe, there is no suggestion that it was being used for any other purpose other than domestic storage when the notice was issued. In other words, there is no suggestion that at this time the building was being used for independent dwellinghouse purposes, or that such an intention existed on the part of the appellant.
10. While the appeal building is not small, I find that subject to it not including kitchen and bathroom facilities it would not be tantamount to the erection of a separate dwellinghouse. Furthermore, and, in any event, this is not in itself always a determining factor in deciding whether a residential building is ancillary to the primary use of a site as a single dwellinghouse. While I

¹ APP/K0235/W/21/3275948

acknowledge that the proposed plans considered by the Council and previous Inspector in respect of the s.78 appeal did not in fact include kitchen facilities, the evidence is that a bathroom was nevertheless considered. As outlined above, I was able to see on my site visit that both the kitchen and the bathroom had already been removed from the building as per the appellant's indication in his statement of case. There is a material difference between the s.78 appeal decision and the appeal under consideration as part of this ground (a) appeal.

11. As part of this ground (a) appeal, the appellant does not intend to have any kitchen or bathroom facilities within the building. The appellant has made it clear that he does not intend to use the building for anything other than a use that is incidental to the enjoyment of the dwellinghouse on the site. While the Council are concerned about future use of the building as an independent dwellinghouse, this is a potential that exists for many outbuildings in the area. I find that the use of the building could be adequately controlled, and, if necessary, enforced, by means of the imposition of planning conditions. Such conditions have indeed been suggested by the appellant.
12. As a matter of fact and degree, and subject to the imposition of conditions, I do not find that the appeal building would be tantamount to the erection of a separate dwellinghouse or that any material harm has been caused to the character and appearance of the countryside. I therefore conclude that the development accords with the design, character and appearance requirements of policies 7S, 28S, 29 and 66 of the LP.

Conclusion

13. For the reasons given above, I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

D Hartley

INSPECTOR