



Appeal Decisions

Site visit made on 18 September 2023

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2023

Appeal A Ref: APP/Z3825/C/22/3294592

Appeal B Ref: APP/Z3825/C/22/3294601

Land at The Copper Cabin and Geodesic Dome, Land To The East of Fryern Road, Storrington, Pulborough, West Sussex RH20 4BJ

- The Appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mr Simon Oliphant-Hope and Appeal B is made by Mrs Victoria Oliphant-Hope against an enforcement notice issued by Horsham District Council.
- The notice, numbered EN/20/0501, was issued on 9 February 2022.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of land for the siting of a copper cabin and ancillary geodesic dome for use as short-term holiday accommodation, and associated operational development of the access, car parking, boardwalks and landscaping. Copper Cabin as shown in green, geodesic dome as shown in orange and car parking as shown hatched in blue and the boardwalks as shown in yellow in the approximate locations shown on the attached plan.
- The requirements of the notice are to:
 - (1) Cease the unauthorised change of use of the land as short-term holiday accommodation.
 - (2) Remove from the Land the Copper Cabin ('storage container and the covered outdoor terraced/seating area') and the geodesic dome.
 - (3) Remove from the Land all operational development comprising hard standing, boardwalks, railings, lighting and any other associated paraphernalia which is incidental to the unauthorised use of the Land.
 - (4) Remove from the Land all materials and debris resulting from the compliance with the above steps 1, 2 and 3.
 - (5) Restore the Land to its condition before the breach took place.
- The periods for compliance with the requirements are:
 - (1) Steps 1 shall be completed within 1 month from the date of this notice takes effect
 - (2) Steps 2, 3, and 4 shall be completed within 4 months from the date this notice takes effect.
 - (3) Step 5 shall be completed within 6 months from the date this notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(f), (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - Deleting the words 'hard standing, boardwalks, railings, lighting' and replace with 'access, car parking, boardwalks and landscaping' from the breach of planning control,
 - Deleting '4 months' from compliance period (2) and replacing with '8 months',

- Deleting '6 months' from compliance period (3) and replacing with '10 months'.
2. Subject to the correction and the variations, the appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

3. A planning application was refused for short term studio holiday let and ancillary geodesic dome, with associated access, car parking and landscape, and a subsequent appeal was dismissed¹.

Matters concerning the notice

4. I have a duty to try to get the notice in order. The alleged breach of planning control is set out in the notice. The notice lists the associated operational development as being the access, car parking, boardwalks and landscaping. However, requirement (3) refers to hard standing, boardwalks, railings, lighting, and it does not therefore flow logically from the allegation. It is clear from the notice what the Council is trying to achieve through the requirements, but it would be more precise if the requirements were corrected to reflect the allegation.
5. I have wide powers to correct the notice under section 176(1) of the 1990 Act. I consider that it would not cause injustice to the parties if I correct requirement (3) to list the associated operational development in the same way as it is set out in the allegation.

The appeals on ground (f)

6. The ground of appeal is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
7. In such cases, the first step is to identify the purposes of the notice. As the corrected notice requires the use to cease and the operational development to be removed in its entirety, the purpose of the notice is to remedy the breach of planning control. The requirements of the notice cannot, therefore, be said to be excessive.
8. The appellants argue that the gravel surface of the access and car park was laid on top of an existing hardcore base, and that the requirements should be varied to allow the track and hardstanding to remain. A notice directed at a material change of use may require the removal of works that are integral to and solely for the purpose of facilitating the unauthorised use, even if such works on their own may be immune from enforcement, so that the land is restored to its condition before the change of use took place.
9. As corrected, the notice requires the removal of the access, car parking, boardwalks and landscaping, and that the land is restored to its condition before the breach took place. There is no specific requirement to remove the hardstanding in its entirety and the underlying hardcore as suggested by the appellants. There is no specific requirement to remove the new stream or the

¹ Appeal ref APP/Z3825/W/21/3271720

cutting. It is for the appellants to establish whether this work is required to comply with the requirements of the notice. The appellants are best placed to know the extent of the works required for the land to be restored to its condition before the breach took place.

10. As there is no appeal on ground (a), I am not able to consider the merits of the suggested lesser steps of retaining the boardwalk and railings, bridges, gravel and pathways. There is no obvious alternative to the requirements as corrected. The appeals on ground (f) therefore fail.

The appeals on ground (g)

11. The ground of appeal is that the period for compliance with the requirements of the notice is too short. The appellants argue that the compliance period for step 1 should be 6 months. This is because advance bookings have been made and extending the compliance period will allow them to be honoured. I am mindful however that the appeal decision for the previous planning application found that the development has caused harm to the Ancient Woodland, a Green Gap and the landscape, and that the use is causing ongoing harm to the woodland and protected species. I consider that the one-month compliance period for step 1 is therefore reasonable in order to bring the harm to a timely conclusion.
12. The appellants request that the compliance period for steps 2, 3 and 4 be extended from 4 months to 12 months, in order to avoid works being carried out during the winter months when the ground is wet, as this could increase the harm to the ground and the woodland. Due to the timing of this decision, I consider that 8 months would strike a reasonable balance between the need to avoid the wettest part of the year and the need to resolve the breach of planning control in a timely fashion. It follows that the compliance period for step 5 should be extended to 10 months to allow the land to be restored to its previous condition following the removal of the operational development. To this limited extent, the appeals on ground (g) succeed and I shall vary the notice accordingly.

Conclusion

13. For the reasons given above, I conclude that the periods for compliance with the notice fall short of what is reasonable. I shall correct and vary the notice prior to upholding it. The appeals on ground (g) succeed to that extent.

N Thomas

INSPECTOR