



Appeal Decision

Site visit made on 22 April 2024

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th May 2024

Appeal Ref: APP/V2635/C/23/3316846

Land at Middleton Hall Golf Club, Hall Orchards, Middleton, King's Lynn

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the Act) as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr D Freeman, Middleton Hall Golf Club against an enforcement notice issued by King's Lynn and West Norfolk Borough Council (the LPA).
 - The enforcement notice was issued on 12 January 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of a single storey semi-permanent function suite and timber acoustic fence.
 - The requirements of the notice are:
 1. As shown in Appendix A, permanently remove the single storey semi-permanent function suite.
 2. As shown in Appendix A and B, permanently remove all associated paraphernalia/infrastructure including the hardstanding and timber acoustic fencing.
 3. Restore the Land to its former condition.
 - The period for compliance with the requirements is four calendar 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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Formal Decision

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

Procedural Matters

2. The appellant stated on the appeal form that it was possible to see the appeal site sufficiently to judge the proposal from public land. I therefore attempted an unaccompanied site visit on the above date. However, it was apparent on my arrival that I could not see the alleged breach in its entirety from public land. Nevertheless, given the appeal falls to be considered only on grounds (f) and (g), and the planning merits are not before me, I am satisfied I have seen all I needed to see for the purposes of this appeal.

The appeal on ground (f)

3. An appeal on ground (f) is made on the basis that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity.
4. S173(4) of the Act states that an enforcement notice has the purpose of either:
 - (a) remedying the breach of planning control; or,
 - (b) remedying any injury to amenity which has been caused by the breach.
5. The notice does not specify which of the two purposes it seeks to achieve. The requirements of the notice, however, seek to remove the function suite, the

paraphernalia and infrastructure which has facilitated the function suite, including hardstanding and timber acoustic fence, and restore the Land to its former condition. On that basis, I consider the purpose of the notice is to remedy the breach of planning control by restoring the Land to its condition before the breach took place in accordance with S173(4)(a) of the Act.

6. Planning permission was previously refused by the LPA for a single-storey semi-permanent function suite on 7 December 2022¹. The appellant's case is that the LPA's reasons for refusing planning permission, and issuing the notice, have been overcome by the removal of the sound system from the function suite and the removal of a generator.
7. However, that planning merits of the breach may only be considered pursuant to an appeal on ground (a), where that is pleaded, and the fee is paid for the deemed planning application. In this case, no appeal on ground (a) has been brought and it is not open to me to consider the planning merits of the appellant's case in the context of a ground (f) appeal. Thus, it is not open to me to consider whether the LPA's reasons for previously refusing planning permission and issuing the notice are overcome by the removal of the sound system and generator.
8. To that end, the intimated lesser step of not requiring the removal of the function suite and all associated works would not suitably remedy the breach of planning control. On that basis the steps required by the notice to be taken are not excessive.
9. The appeal on ground (f) therefore fails.

Appeal on ground (g)

10. An appeal on ground (g) is made on the basis that the period for compliance with the requirements specified in the notice falls short of what should reasonably be allowed.
11. The notice gives a period of 4 months for the removal of the function suite, associated paraphernalia and infrastructure, including the hardstanding and fencing, and the restoration of the Land to its former condition.
12. The appellant states that they have bookings for the venue which have been granted Temporary Events Notices and which cannot be easily rearranged. They state that a period of 9 months would be more appropriate.
13. The LPA indicate, however, that the last Temporary Event Notice granted for the Golf Club was in January 2023 and, at the time of its statement, no new notices were proposed. Moreover, the appellant has not provided any documentary evidence of future bookings that would be affected by removal of the function suite within 4 months. Furthermore, whilst the appellant states the events cannot be easily rearranged, they do not state that they cannot be rearranged at all.
14. The appellant states that 4 months would fall within the "peak of the season". However, it is not clear what season is being referred to nor how that would influence the removal of the suite and facilitating works. There is no evidence before me that any period of inclement weather would prevent compliance

¹ LPA Ref: 22/00603/F

being carried out within 4 months. On that basis, a period of 4 months for compliance with the notice seems to me to be reasonable.

15. The appeal on ground (g) therefore fails.

Conclusion

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

J Whitfield

INSPECTOR