



Appeal Decision

Site visit made on 13 February 2025

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 17 January 2025

Appeal Ref: APP/M9496/C/24/3345215

Land at The Bank House Bar & Restaurant Ltd, Bank House, Main Road, Hathersage, Hope Valley S32 1BB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Samuel Bell against an enforcement notice issued by Peak District National Park Authority.
 - The notice was issued on 25 April 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the carrying out of building or other operations comprising the construction of a timber structure inserted into metal post holders which are bolted into concrete pads which have been laid ("the Timber Structure") on the land shown coloured blue on the attached plan ("the Unauthorised Development").
 - The requirements of the notice are to:
 - (a) Remove the Timber Structure including the metal post holders which are bolted into concrete pads which have been laid; and to
 - (b) Reinstatement the Land to its former condition prior to the development taking place.
 - The period for compliance with the requirements is Three Months:
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Appeal on ground (f)

2. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
3. Section 173 of the Town and Country Planning Act (as amended) (the Act) indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second is to remedy any injury to amenity which has been caused by the breach. In this case the purpose behind the notice is to remedy the breach of planning control.
4. The breach of planning control relates to a timber structure which has been constructed on Land at The Bank House Bar and Restaurant to provide a form of enclosure for the bar/restaurant's outside seating area. The structure has lights strung on it. The appellant's case is predicated on the planning merits of the structure, in terms of its aesthetics, its impact on designated heritage assets and its purpose/benefits. I understand it was erected to provide a safe means of enclosure from the neighbouring highway and to display outside lights.
5. The appellant suggests that the horizontal and brace elements of the structure could be removed, and/or the structure could be granted consent for a temporary

period. It has also been suggested that the appellant would have no objection to the structure being linked to the use of The Bank House Bar/Restaurant. However, in the absence of an appeal on ground (a), general planning considerations cannot be considered when determining an appeal on ground (f), and the notice cannot be varied to attack its substance. It is not therefore open to me to substitute lesser steps that would allow any element of the unauthorised operations to remain when the purpose of the notice is to remedy the breach of planning control.

6. Retention of the timber structure, or part of it, as suggested by the appellant would not remedy the breach of planning control and there are no lesser steps available which would achieve the statutory purpose behind the notice.

Other Matters

7. The appellant refers to a fallback position and suggests that should the timber structure be required to be removed, then the metal lighting poles and festoon lights would be re-instated. The appellant believes paragraph 5 (b) of the enforcement notice requires the poles to be reinstated. I do not know the lawful planning status of the previous metal poles and festoon lighting. However, those poles were removed prior to the erection of the timber structure the subject of this appeal. The notice does not require the metal poles to be re-instated. Indeed, an enforcement notice cannot require new development to take place.
8. I have had regard to third party representations and recognise that the unauthorised development has the support of several residents within the village. Nevertheless, for the reasons set out above, and in the absence of an appeal on ground (a), general planning considerations cannot be considered in this appeal, and it is not therefore open to me to grant permission for the unauthorised development, or part of it in this appeal.

Conclusion

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

Elizabeth Pleasant

INSPECTOR