



Appeal Decision

Site visit made on 27 January 2025

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 February 2025

Appeal Ref: APP/Y9507/C/23/3329495

Land at Rose Cottage, High Street, Duncton, West Sussex GU28 0LB

- 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 Mrs Jessica Kenyon against an enforcement notice issued by South Downs National Park Authority.
 - The enforcement notice was issued on 7 August 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a shipping container building.
 - The requirements of the notice are: Remove the shipping container building from the Land.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Summary of Decision

1. The appeal is dismissed and the enforcement notice upheld subject to corrections and a variation.

The ground (b) appeal

2. For the ground (b) appeal to succeed the onus is on the appellant to demonstrate, on the balance of probabilities, that the alleged breach of planning control, namely the construction of a shipping container building, has not occurred as a matter of fact.
3. The appellant contends that a shipping container has not been constructed on the site. Rather, a metal storage container has been placed. I accept no construction has taken place and the words storage container as opposed shipping container would be more accurate in this instance.
4. Containers are then usually held to be buildings for planning purposes. I then have very little evidence to demonstrate on the balance of probabilities that the characteristics of this container, in terms of its size, permanence and physical attachment to the land, would render it otherwise. It is however not necessary to refer to it explicitly as a building in the allegation.
5. I will therefore correct the allegation and subsequent requirement as injustice to the parties would not arise.

6. The appeal on ground (b) therefore succeeds to this limited extent.

The ground (f) appeal

7. The purpose of the enforcement notice is clearly to remedy the breach of planning control and it does not seek to under-enforce. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control and propose lesser alternatives steps.
8. It is contended the container could be moved inside the curtilage of the dwellinghouse in accordance with permitted development rights. The National Park have then advised that the notice does not seek to control householder development and so has prepared a revised plan, to exclude the curtilage from the land affected. In doing so, this does not convey that moving the container inside the curtilage would be lawful, only that it would not be in breach of this enforcement notice.
9. Given the position of the parties, injustice would not arise from accepting the revised plan.
10. The appeal on ground (f) therefore succeeds to this extent.

The ground (g) appeal

11. The appellant concedes that technically they could remove the container within the two months afforded by the notice. Other building works at the site or supposed environmental factors then do not convince me that the compliance period is too short. These other works also largely relate to what would be a separate planning matter, as would moving the container inside the curtilage, which may or may not require planning permission. The period requested of 2 years would also unacceptably perpetuate the breach of planning control.
12. The appeal on ground (g) therefore fails.

Overall Conclusion

13. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation.

Formal Decision

14. It is directed that the enforcement notice be corrected and varied by:
 - deleting the words '*...the construction of a shipping container building...*' in section 3. of the notice and replacing them with the words '*...a storage container...*'
 - deleting the words '*...shipping container building...*' from section 5. (i) of the notice and replacing them with the words '*...storage container...*'
 - substituting the plan attached to this decision at Annexe A for the one originally attached to the notice.

15. Subject to these corrections and variation the appeal is dismissed and the enforcement notice is upheld.

Paul T Hocking

INSPECTOR



Annexe A Plan

This is the plan referred to in my decision dated: 03 February 2025

by **Paul T Hocking BA MSc MRTPI**

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Scale: DO NOT SCALE

