



Appeal Decision

Site visit made on 3 February 2025

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 10 February 2025

Appeal Ref: APP/C1435/C/24/3348941

Land at the Old Steamhouse, Lime Park, Herstmonceux, East Sussex, BN27 1RF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Lime Park Estate Ltd against an enforcement notice issued by Wealden District Council.
 - The notice was issued on 2 July 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a raised platform, balustrade, timber framework, pitched roof extension, and first floor additions in the approximate positions shown coloured green on the attached plan.
 - The requirements of the notice are: (i) Demolish, dismantle and remove the raised platform, balustrade and wooden framework around the trees on top of the pre-existing pergola. (ii) Demolish, dismantle and remove the first floor, pitched roof extension constructed on top of and adjacent to the existing outbuilding to the front of the main building. (iii) Remove the first floor additions made to the rear of the main building. (iv) Remove the wooden framework attached to the rear of the main building at first floor level. (v) Remove from the Land all materials, timber, rubbish, debris, machinery, tools and equipment arising from compliance with the above requirements.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (d), (g) of the Town and Country Planning Act 1990 (as amended).
-

Decision

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

Reasons

2. This appeal is brought by Lime Park Estates who were served with the enforcement notice along with Mr Nelson Kruschandl. There is evidently a long history of dispute between the Estate and Mr Kruschandl and this includes issues over land ownership. This appeal is essentially because the Estate feel they have been dragged into this dispute which is entirely the fault of Mr Kruschandl. All the matters alleged in the notice are down to him and the Estate have no control over his actions. More specifically, they are concerned they may be held responsible as landowners for carrying out the requirements of the notice which they will not be able to do unless they undertake a potentially lengthy and costly legal process to obtain access to the land.
3. I can understand their concern, however, this is not how the enforcement process is to be understood. An enforcement notice should be issued to everyone who has an interest in the land. This includes the owners of the land, mortgage holders, tenants, and anyone occupying the land, even if that occupation is illegal. For example if someone moves a caravan onto a field they do not own in order to live there, they and the land owner would both be served. In such a case the landowner might be an entirely innocent party but they should still receive a copy

of the notice. Anyone who is served with the enforcement notice has a right of appeal.

4. At the end of the period for compliance if there any steps required in the notice to be undertaken that have not been carried out (in this case for example not demolishing the balustrade etc) then the landowner is guilty of an offence. However, it is a defence against prosecution (s179(3) of the 1990 Act) if it can be shown the landowner did everything they reasonably could have done to secure compliance. S179(4) goes on to state that any person who has control of the land is also bound by the requirements and if they fail to carry them out, they too are guilty of an offence.
5. In this appeal the ownership of the land is disputed, but it would seem that Mr Kruschandl is in control of the entire site, regardless of ownership, and is responsible for the development alleged to be unlawful. Should it come to prosecution any landowners who cannot exercise control over the land for whatever reason are protected by s179(3).
6. In this case although ground (d) has been appealed this ground is that the matters alleged are immune from enforcement due to the passage of time. I assume this is not what the estate meant to argue and no evidence has been brought forward to support this contention.
7. The ground (g) appeal is on the basis that much more time will be needed for the Estate to undertake the legal processes required to retain control over the land in order to carry out the requirements. I hope I have set their minds at rest that this is not necessary. There is no reason to extend the time limit on the Estates behalf.

Conclusion

8. Neither ground of appeal succeeds. I shall dismiss the appeal and uphold the notice. This does not affect the outcome of the separate appeal by Mr Kruschandl.

Simon Hand

INSPECTOR