



Appeal Decision

Site visit not required

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 APRIL 2025

Appeal Ref: APP/K0425/C/23/3332293

4 East Drive, High Wycombe, HP13 6JN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Ali Hyder against an enforcement notice issued by Buckinghamshire Council.
 - The notice was issued on 27 September 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an outbuilding.
 - The requirements of the notice are to 1. demolish and remove the outbuilding (shown in the approximate position shown hashed on the attached plan) and 2. remove all materials and debris resulting from complying from step 1 of this notice from the land.
 - The period for compliance with the requirements is three months of the notice taking effect.
 - The appeal is proceeding on the ground 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.

Reasons

2. An appeal made on ground (f) of section 174(2) of the Act 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 or to remedy any injury to amenity which has been caused by any such a breach.
3. The appellant claims that the requirements of the notice are excessive in so far that the outbuilding could be altered to comply with permitted development rights and, moreover, that a planning application¹ has been submitted to the Council and is awaiting a decision.
4. The appellant has not appealed on ground (c) of section 174(2) of the Act, i.e., that that the matters alleged do not constitute a breach of planning control. There is no evidence that the outbuilding which is the subject of this appeal is permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
5. The purpose of the notice is to remedy the breach of planning control by demolishing and removing the outbuilding. This is not an excessive requirement as it remedies the breach of planning control. Whether a permitted development outbuilding could be erected following the demolition of the appeal outbuilding would need to be considered separately including, if necessary, applying for a

¹ Planning application 23/07252/FUL

certificate of lawful development from the local planning authority under section 192 of the Act.

6. It is important that I emphasise that it is not possible to retain part of the unlawful outbuilding and still benefit from permitted development rights. Retention of part of the outbuilding would not be permitted development given Article 3(5) of the GPDO which states that *'the permission granted by Schedule 2 does not apply if— (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful'*.
7. I have not been provided with any details of planning application 23/07252/FUL which is *'awaiting a decision'*. There is no evidence before me to indicate that planning permission has been approved in whole or in part for the outbuilding which is the subject of the appeal. On this basis, the requirements of the notice are not excessive. Moreover, I am not able to consider the planning merits of any alternative scheme which may alter or amend the outbuilding on the site because there is no appeal on ground (a) of section 174(2) of the Act, i.e., no deemed planning application.
8. If planning permission was to be subsequently approved for part of the appeal outbuilding, then I emphasise that section 180 of the Act states that where after the serving of an enforcement notice planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.
9. For the reasons outlined above, I conclude that the ground (f) appeal fails.

Other Matter

10. I note the representation made by the occupier of No. 24 Lyndon Gardens and the allegation that damage has been caused to a fence. This is a private/civil matter to be addressed between the respective parties and is not a relevant ground (f) appeal matter.

Overall Conclusion

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

D Hartley

INSPECTOR