



Appeal Decision

Site visit made on 7 May 2025

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 16 May 2025

Appeal Ref: APP/N4720/C/24/3337496

Land at Black Bull, Market Place, Otley LS21 3AQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Melanie Green (Hughes Bars Ltd) against an enforcement notice issued by Leeds City Council.
 - The notice was issued on 14 December 2023.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised development of a large shelter / structure, positioned in the beer garden to the side of the property, within the curtilage of a Grade II Listed Building, to facilitate the use of the outside beer garden.
 - The requirements of the notice are to: remove the unauthorised shelter / structure and all the materials associated and used for the construction of the shelter from the land.
 - The period for compliance with the requirements is: 3 months.
 - 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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Formal Decision

1. It is directed that the enforcement notice is corrected by: the deletion of the word “land” in paragraph 5 and its substitution with the word “Land”.
2. Subject to the corrections, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. The appellant and interested parties have raised a number of purported benefits in favour of the development. However, the appeal proceeds on ground (f) only. As no appeal has been brought on ground (a) of section 174 of the 1990 Act, it is not open to me to consider the planning merits of the development.

Enforcement Notice

4. The enforcement notice defines the Land at Black Bull, Market Place, Otley, LS21 3AQ as “the Land”. However, in setting out the steps required to be taken, paragraph 5 of the notice refers to “the land” rather than the correct defined term.
5. In accordance with section 176(1)(a) of the 1990 Act I can correct the steps required to be taken in paragraph 5 of the notice to read: “remove the unauthorised shelter/ structure and all the materials associated and used for the construction of the shelter from the Land’. I can make this correction without injustice to the appellant or the local planning authority.

Appeal on ground (f)

6. An appeal on ground (f) is brought on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either: (a) remedying the breach of planning control; or (b) remedying any injury to amenity which has been caused by the breach. Section 173(4) is clear that a notice can remedy the breach of planning control by: making the development comply with the terms of any planning permission which has been granted in respect of the land; by discontinuing any use of the land; or by restoring the land to its condition before the breach took place.
7. The alleged breach of planning control relates to, without planning permission, the development of a large shelter structure to the side, and within the curtilage, of the Black Bull Grade II Listed Building to facilitate an outside beer garden. The requirements are to remove that structure and all materials associated and used for its construction from the Land. As such, the purpose of the enforcement notice in this instance is to remedy the breach of planning control.
8. The appellant alleges that the requirements of the notice are excessive and that lesser steps could have been taken. However, limited justification for this stance is given, and no lesser requirements are suggested. I observed the Land during my visit, and noted the presence of the development. While the structure may be freestanding, it remains that it is located within the curtilage of the Grade II Listed Building.
9. From my observations the only way to remedy the breach would be to remove the structure and all materials associated and used for its construction from the Land as outlined in the requirements of the notice. Given the purpose of the notice, the requirements are not therefore excessive.
10. The appeal on ground (f) therefore fails.

Conclusion

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

C Rafferty

INSPECTOR