



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 29 May 2025

Appeal ref: APP/T4210/C/25/3361660

Land at the Garden of the Eagle and Child, 3 Whalley Road, Shuttleworth, Ramsbottom, Bury, BL0 0DL

- 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 brought by Mr J Francis (Daniel Thwaites Plc) against an enforcement notice issued by Bury Council.
- The notice was issued on 30 January 2025.
The breach of planning control as alleged in the notice is: Unauthorised structure (known as a 'Tipi') with the garden of the Eagle and Child".
The requirements of the notice are: "a) Remove the structure, referred to as a 'Tipi' and remove from the site b) Remove the heating apparatus that serves the 'Tipi'."
- The time period for compliance with the notice is: "...by **5th of May 2025**, being 2 calendar months from the date which this notice takes effect".
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld but with variation.

Reasons for the decision

1. The main reason given for requesting more time to comply with the requirements of the notice is in order to allow time to investigate the scope to replace the tipi with a more permanent higher quality structure and to allow for existing bookings to be honoured. To that end, the appellant requests that the compliance period be increased to 12-18 months in order to progress pre-application discussions with the Council and obtain planning permission. However, while I note the appellant's reasons, to extend the compliance period to 12-18 months would be tantamount to granting a temporary planning permission, which I have no authority to do in an appeal under ground (g) only. I am also mindful that more than 2 months have elapsed since the appeal was submitted with enforcement action effectively suspended.
2. Added to this, the Council have stated that at the time of writing their statement no approaches have been made by the appellant to discuss a more permanent structure. They also contend, and is not disputed, that the appellant is still taking bookings in spite of the fact that enforcement action has been taken. If this is the case, then clearly this is a situation of the appellant's own making.
3. As the compliance period will begin again from the date of this decision, the appellants will effectively have had more than 4 months in which to remove the tipi and heating

apparatus from the appeal site as required by the notice. I am not satisfied there is good reason to extend this period further. The appeal fails accordingly.

4. While I am dismissing the appeal, I consider it necessary to vary the wording in the time for compliance with the notice as the date of 5 May 2025 is now not appropriate.

Formal decision

5. For the reasons given above, the appeal is dismissed but it is directed that the enforcement notice be varied under section 6 '**TIME FOR COMPLIANCE**' by the deletion of "by the **5th May 2025** being", with the substitution of "within", so that the time for compliance now reads "The steps detailed as a) and b) in Section 5, above, to be completed in full within 2 Calendar months from the date which this notice takes effect". Subject to this variation the notice is upheld.

K McEntee