
Appeal Decision

by **Grahame Kean BA (Hons), Solicitor (HRA), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 July 2025

Appeal Ref: APP/N4720/C/24/3352081

Land at 17 and 17A Holt Way, Adel, Leeds, LS16 7QP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Riyat Associates Ltd against an enforcement notice issued by Leeds City Council.
 - The notice was issued on 21 August 2024.
 - The breach of planning control as alleged in the notice is: without planning permission, development has taken place consisting of a self-contained outbuilding in the rear garden.
 - The requirements of the notice are:
Step 1 - Remove the outhouse and all materials associated with its construction and remove all the materials and detritus from the land.
Step 2 - Remove the base the outhouse has been constructed on and backfill with an appropriate topsoil and reseed the area with grass seed to establish a grass lawn that existed prior to the unauthorised development.
 - The period for compliance with the requirements is: six months beginning with the day on which this notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(d) 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.

Procedural matters

2. From the information provided by the main parties I have been able to determine this appeal without it being necessary to inspect the appeal site.
3. The Council's statement appears at one point to allege a material change of use, whereas it is clear from the notice that it is the erection of the outbuilding as a separate dwelling, ie operational development that is alleged. On querying the works taking place the Council was told in January 2024 that an office was being constructed, to be used by the site's occupiers and the owner, who lived elsewhere. However, clearly that use did not materialise on the information I have, nor is it claimed that this is a case of unauthorised change of use of an existing building to a single dwellinghouse.

Ground (d)

4. An appeal on this ground is that at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice. The onus of proof is firmly on the appellants and although its case need not be corroborated, the evidence must be sufficiently precise and unambiguous on the balance of probability.
5. Section 171B(1)(a) of the 1990 Act, as amended, now prevents enforcement action against operational development such as the erection of a building after the

end of ten years beginning with the date on which the operations were substantially completed. However, where substantial completion took place before 25 April 2024, development becomes immune from enforcement if no action is taken within 4 years of substantial completion for a breach of planning control consisting of operational development (or for that matter a change of use of an existing building to a single dwellinghouse) (see PPG Paragraph: 004 Reference ID: 17b-004-20180222).

6. Therefore, the issue is whether the operations were substantially completed before or after 25 April 2024 and if so, whether the relevant period of immunity of 4 years had expired before the notice was issued.

Background and reasons

7. A garage within the wider site had been used as a separate dwelling for over ten years despite this being in breach of a condition attached to the permission for its conversion to an extension to the main dwellinghouse only. The address of that part of the site is now known as 17A Holt Way.
8. However, in October 2023 the Council was alerted to building works taking place at the appeal site. The appeal property was inspected by the Council and found to be another self-contained outhouse with separate utilities, a separate toilet with shower room, a kitchen and a bedroom. To all intents and purposes it appeared to the Council to be a small house with external lighting. The Council was also made aware of an application for a new address for the unit, namely 17B Holt Way.
9. The Council recorded a site visit on 9 November 2023 when it considered that the outhouse was under construction and has supplied credible evidence in the form of photographs of the works then underway. Although the new unit was apparently (according to the Council) claimed to be for the owner's mother-in-law, it would appear that as a matter of fact and degree a separate dwelling has been created as evidenced by the information supplied to me including the images of the new unit taken externally and internally on 20 June 2024.
10. The form on which the appellant applied to give this new unit its new address was accompanied by a plan annotated "home" on the main part of the unit. The completed form estimated the completion date as 1 February 2024, so it is likely in my view that substantial completion of the new dwelling took place before 25 April 2024 but not before January 2024 and certainly not before November 2023. Accordingly, the period of immunity of 4 years from the date of substantial completion had not expired when the notice was issued.
11. The appellant has not provided a statement and merely asserts in relation to this ground of appeal, that the time given in the notice is unreasonable, ie it argues that the period for compliance is unreasonable which is a matter that would be considered if an appeal had been made on ground (g).
12. Although there is no ground (g) appeal I do have powers to consider variation of a notice that does not give a reasonable period for compliance. That said, the requirements are not challenged by way of any appeal under ground (f) that they are in any way excessive. On the information I have, there is no good reason to disagree with the period of 6 months stipulated in the notice for compliance.
13. As to the appeal on ground (d) this cannot succeed for the above reasons.

Conclusion

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

Grahame Kean

INSPECTOR