



Appeal Decision

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 13 August 2025

Appeal Ref: APP/Y3940/C/24/3353179

Land at Lydiard Green, Lydiard Millicent, Swindon, Wiltshire SN5 3LP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr James Forty against an enforcement notice issued by Wiltshire Council.
 - The notice was issued on 5 September 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, operational development comprising the erection of three buildings in the approximate three locations within the Land that are edged with a blue line on the attached plan entitled "Notice Plan".
 - The requirements of the notice are to:
 - a) Demolish the three buildings in full, including the slab and foundations of all three buildings.
 - b) Remove all materials and debris resulting from a) from the Land.
 - The period for compliance with the requirements is 4 (four) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f), (g) 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.

Applications for costs

2. An application for costs was made by Wiltshire Council against Mr James Forty. This is the subject of a separate decision.

Preliminary matters

3. The appeal was initially lodged on grounds (d), (f) and (g). The ground (d) appeal was withdrawn by the appellant's agent on 28 February 2025. This was on the basis that following an assessment of the works that had taken place, it was concluded that "the operational development referred to in the Notice had not been substantially completed more than four years prior to the date of the issuing of the Notice". The appeal proceeds on grounds (f) and (g).
4. Given that there are no matters of planning merit for consideration, it was considered that a site visit was not necessary. The parties were contacted regarding this matter and given the opportunity to comment on the appropriateness of the proposed approach. No objections were received.

Ground (f)

5. The appeal on ground (f) is that the steps required by the notice to be taken exceed what is necessary to remedy any breach. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. S173(4) provides that the purpose shall be either to remedy the breach of planning control or to remedy any injury to amenity. In this case it would appear from the requirements of the notice that its primary purpose is to remedy the breach by the demolition and clearance of the three unlawful buildings. For the appeal on ground (f) to succeed,

the appellant would need to propose alternative steps which would remedy the breach.

6. The planning history relating to this site is said to show that the buildings on the site, together with the site itself, have been considered at various times to be suitable and appropriate for re-use for residential purposes. These seem to relate to applications in 2015 and 2018 for prior approval for the conversion of the buildings to three dwellings. While the photos show some works had been undertaken at the appeal site, the buildings remain in a semi-derelict state.
7. A valid application for planning permission for 'completion of one existing redundant dwelling and erection of one new dwelling' is currently before the Council. This is said to address issues raised in the appeal decision issued in 2020 in respect of an earlier application for planning permission relating to part of the appeal site.
8. The current application for planning permission was acknowledged by the Council under ref: PL/2024/06287 on the 20 May 2024 and remains undetermined at the present date. The appellant considers that until such time as the current planning application has been determined by the Council, and the appellant has had the opportunity to consider that decision, the requirement to remove buildings that form part of the development applied for, is both unreasonable and inappropriate.
9. I do not have full details of the current application or any of the previous applications or appeal. Nevertheless, the appellant notes that the subject matter of the current planning application is not directly comparable with the breaches of planning control alleged in the Notice.
10. The appellant has not provided any alternative steps, and there are none that are obvious to me. Given that the purpose of the notice is to remedy the breach of planning control, and there is no appeal on ground (a), this can only be achieved by demolition of the three buildings in full, including the slab and foundations, and the removal of all resultant debris. To require these measures does not, therefore, exceed what is necessary to remedy the breach.
11. The appeal on ground (f) therefore fails.

The appeal on Ground (g)

12. The appeal on ground (g) is that any period specified in the notice in accordance with s173(9) of the Act falls short of what should be reasonably allowed. I am mindful of the importance of striking a balance between enforcement that is intended to be remedial rather than punitive, while maintaining public confidence in the planning system.
13. There is no suggested time for compliance with the notice, however, the appellant has requested that the enforcement notice be quashed to encourage the Council to proceed to determine the application. On an appeal against an enforcement notice on grounds (f) and (g), the powers to quash the notice are not available to the Inspector.
14. In the circumstances that currently apply to this site, the appellant considers that the requirements of the notice to clear all buildings and resultant debris from the site within a period of four months is both excessive and unreasonable. No other

time period is suggested. They only suggest that the time period be extended to allow for the current application to be determined by the Council.

15. While I am not certain of the direct relevance of the current planning application as its details are not before me, I am less certain of when a decision may be made by the Council. In these circumstances, if I was to extend the period to six months, the appellant could be in exactly the same position.
16. As there is no substantive reason why the site could not be cleared of the unauthorised development within four months, I consider that the period for compliance with the notice is reasonable.
17. The appeal on ground (g) therefore does not succeed.

S A Hanson

INSPECTOR