



Appeal Decision

Site visit made on 30 August 2025

by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2025

Appeal Ref: APP/C1435/F/23/3320032

The Dorset Arms, Buckhurst Park, Withyham TN7 4DB

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act").
- The appeal is made by Right Honourable Earl De La Warr against a listed building enforcement notice issued by the Wealden District Council.
- The listed building enforcement notice was issued on 8 March 2023.
- The contravention of listed building control alleged in the notice is the erection of a timber boarded lean-to extension with retractable canvas roof on the eastern side of the building.
- The requirements of the notice are to: (1) Demolish, dismantle and remove the works from the land. (2) Patch up, repair and make good, using materials matching the previously undisturbed areas, any areas from where the works have been removed, to marry in with the adjacent undisturbed parts of the building, and (3) remove from the land all materials, rubble, rubbish, debris, tools and equipment arising from compliance with the above requirements.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on ground (e) within section 39(1) of the Act.

Decision

1. The listed building enforcement notice is varied by the deletion of the text "three months" in paragraph 6 and substituted therefor by the following number and text: "12 months". Subject to this variation, the appeal is dismissed, and the listed building enforcement notice is upheld. Listed building consent is refused for the retention of the works, namely, the erection of a timber boarded lean-to extension with retractable canvas roof on the eastern side of the building, carried out in contravention of section 9 of the Act.

Reasons

2. The Dorset Arms is listed at grade II; it is set back behind a green area. It is a two-storey timber framed building with brick and tile hung walls on a stone base and a tiled roof. The site is located within the Withyham Conservation Area (CA) and a designated landscape, the High Weald Area of Outstanding Natural Beauty. There is a yard to the rear, which is enclosed by a tall close-boarded timber fence and this area is identified as "The Garden Room". The space provides an area where patrons can consume food and drink on the premises under cover. The timber boarded lean-to extension with retractable canvas covers an area that is about 7 metres wide and 4.6 m deep, the canvas is supported on timber posts and the whole extension is a permanent structure. An application for a temporary rear dining extension and storage shed was refused by the Council¹.
3. The notice refers to saved local planning policies, which reflect the statutory duties in seeking to safeguard listed buildings and the character or appearance of CAs as set out in chapter 16 to the National Planning Policy Framework 2024 (NPPF). The **main issue** is whether the unauthorised works preserve the special architectural or historic interest or setting of the listed building, whether they preserve or enhance the character or appearance of the CA and whether the significance of the heritage assets is harmed.

¹ Council ref WD/2020/2602/LBR refused consent on 3 February 2023 accompanied application for planning permission ref WD/2020/2601/FR.

4. The building's significance as a heritage asset is derived from its architecture and historic interest. As confirmed by the appellant's representations, the property is a fine example a 15th Century building. The listing description indicates the building has been altered at a later date, nonetheless, the architectural style and built form reinforce the special historic interest of the listed building and significance of the CA. The latter mainly characterised by permanent buildings with detailed architectural designs.
5. In that context, the appellant maintains that the timber boarded lean-to extension with retractable canvas roof is not fixed to the historic fabric and it can be easily removed. The argument is that the structure is not directly visible, but it is noticeable from the side track and adjacent garden: in any event, just because the extension is contained within the rear garden it does not necessarily follow that the works do not affect the historic fabric of the building. In my assessment, the extension fails to visually integrate with the architectural design and style of the host building.
6. Consent is sought to retain the extension on a temporary basis because the appellant intends to formulate an alternative scheme, but there is no such scheme before me. Nevertheless, I appreciate the reasons why a retractable canopy affords the business an all-weather outdoor seating area enjoyed by patrons. However, when considered in the context of the historic building and quality of the surrounding CA, the addition forms a discordant feature to the listed building and CA. The extension detracts from the architectural style, detailing uniformity and consistency of the host building and its design is out of keeping with the character of the CA.
7. Contrary to the appellant's submissions, I find that the alleged work fails to preserve the special architectural or historic interest or setting of the listed building which, in turn, fails to preserve or enhance the character or appearance of CA and harms the significance of the heritage assets.
8. The harm, although serious, is less than substantial in terms of NPPF 215. In this regard, the property is in use as a public house and is currently occupied, hence its optimum viable use is already established. Nevertheless, there are economic benefits of keeping The Garden Room. As I have already said elsewhere, it provides a covered outdoor seating area to consume food or drink and to socialise: these considerations weigh in favour. On balance, the reasons advanced in support of granting consent, although forcefully made, whether considered individually or cumulatively, do not outweigh my assessment on the main issue above.
9. The extension does not have a fleeting quality and, whilst detachable, I do not consider consent should be granted for its retention even for a limited duration. Instead, I will return later to the possibility of varying the period of compliance. Insofar relevant to the determination of this appeal, the work fails to meet with the main aims of saved Policy EN27 of the Local Plan (1998) and Policy SP02 of the Core Strategy Local Plan (2013), and NPPF 210, 212 to 215.

Overall conclusions

10. The Act grants powers to vary the period of compliance provided no injustice is caused to the appellant or authority. In that context, the parties have extensively referred to the possibility of retaining the unauthorised extension for a period of 12 months. In addition to the issues raised about the potential impact of the notice on the business, the removal of the extension including retractable canopy type structure will require specialist expertise. Given the nature of the work involved in complying with the notice's requirements, three months is too short. I consider that a 12-month period of compliance is reasonable and proportionate in the circumstances. I have therefore varied the notice as no injustice is caused to any party by such a variation.
11. Having regard to all other matters raised, for the reasons given above, ground (e) fails. I introduced the prospects of varying the period of compliance given the submissions before me and I have concluded 12 months is reasonable. Subject to this specific variation, the appeal is dismissed.

A U Ghafoor

INSPECTOR