



Appeal Decision

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025

Appeal Ref: APP/U1430/C/24/3338892

Land at 1 Grants Cottages, Battle Road, Brightling, East Sussex TN32 5HZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Anthony Summersell against an enforcement notice issued by Rother District Council.
- The notice was issued on 26 January 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a timber framed conservatory extension ("the Conservatory") in the approximate position shown coloured green on the attached plan.
- The requirements of the notice are to:
 - (i) Demolish, dismantle, and remove the Conservatory from the Land
 - (ii) Reinstall the garden area from where the Conservatory has been removed by covering that area with topsoil and seeding with grass seed, to marry in with the contours of adjacent undisturbed land.
 - (iii) 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: Four months after the notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is allowed in part, the enforcement notice is corrected and upheld as set out in the Formal Decision.

Procedural matter

1. The enforcement notice ("the Notice") is dated 26 January 2023. This is reflected in my heading above, but the date on which it was to take effect and other documents suggest that it was actually issued in 2024. Given the ground upon which the appeal proceeds, this has no bearing on my decision.

Reasons

2. The purpose of the Notice is to remedy the breach of planning control. The appeal proceeds on Ground (f) which, insofar as is relevant to this appeal, is that the steps required by the Notice to be taken exceed what is necessary to remedy the alleged breach of planning control.
3. Photographs indicate that by June 2020, there was a patio on the site of the conservatory. Subsequently, a gazebo was constructed on the patio and then later a roof was constructed on that, with glazing infilling the sides in order to create the conservatory. While the structure may have stood for a period of time as an open gazebo, it is now part of the conservatory that stands on the site.
4. I understand that the gazebo structure could be lifted in one piece and relocated away from the house. However, I have insufficient information to show that such a proposal would likely result in lawful development at the site. Likewise, it has not been shown that, on the balance of probabilities, returning the structure to the previous free-standing gazebo form would be lawful.

5. The Notice cannot, therefore, be simply amended to require the gazebo's relocation away from the house, or removal of the glass and other enclosing features. To meet the objective of remedying the breach of planning control, the entire structure should be removed.
6. However, it is unnecessary to also require the laying of topsoil and grass. Such a finish did not exist prior to the construction of the conservatory and other garden landscaping, such as that akin to the former patio, would be equally appropriate. Therefore, it is sufficient for the appellant to reinstate the garden however they see fit.
7. With regard to the above, in order to remedy the breach of planning control, it is necessary for the Notice to require removal of the conservatory from the land. If it can, alternatively, be lawfully brought back onto the land in a different location, or modified to comply with a planning permission that I understand to have been granted for an alternative design, then that can be agreed by the parties, outside of this appeal process.
8. I, therefore, find that the appeal should succeed in part and the Notice should be varied so as to allow the appellant to relandscape the garden as they wish.

Formal Decision

9. It is directed that the enforcement notice is varied by the deletion of the words
"by covering that area with topsoil and seeding with grass seed, to marry in with the contours of adjacent undisturbed land"
in Section 5, paragraph (ii).
10. Subject to the variations, the enforcement notice is upheld.

M Bale

INSPECTOR