
Appeal Decision

by D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC

an Inspector appointed by the Secretary of State

Decision date: 30th October 2025

Appeal Ref: APP/V1260/C/24/3346211

Land and premises at 227 Bournemouth Road, Poole BH14 9HU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act).
 - The appeal is made by Mr E La Bouchardiere of 227 BR Limited against an EN issued by Bournemouth Christchurch and Poole Council.
 - The EN was issued on 21 May 2024.
 - The breach of planning control as alleged in the EN is: Without planning permission, the erection of a self-contained dwelling to the rear of the property in the approximate position indicated by a black X on the attached plan.
 - The requirements of the EN are:
Either:
 - i) Cease the use of the building as self-contained residential accommodation.
 - ii) Demolish the building shown in the approximate position by a black X on the plan attached to this Notice to ground level.
 - iii) Remove all the resultant debris following compliance with (i) & (ii) above from then land affected.
OR
 - iv) Cease the use of the building as self-contained residential accommodation.
 - v) Remove the fixtures, fittings, and appliances from the kitchen area to include the sink, work surfaces, cooker, white goods, cooker fume extractor unit, kitchen style wall and floor cupboards and hot and cold-water service and foul waste drainage pipes.
 - vi) Remove all the resultant debris following compliance with (iv) & (v) above from the land above.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the 1990 Act.
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Decision

1. It is directed that the EN is varied by:

- the deletion of the wording of requirement v) and its substitution with the wording *'Remove the fixtures, fittings, appliances and hot and cold-water service and foul waste drainage pipes from the kitchen area'*

Subject to the variation, the EN is upheld.

The ground (f) appeal

2. An appeal under ground (f) is that the steps required by the EN to be taken, or the activities required by the EN to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The EN does not specify which purpose it seeks to achieve. The requirements of an EN may, and often will, serve both the purpose of remedying a breach of planning control and the purpose of remedying any injury to amenity.

3. In this case requirements i) to iii) would remedy the breach by demolishing the building and ceasing its residential use. Yet, the appellant would have the choice to comply with requirements iv) to vi) and in that scenario it appears that the Council has chosen to “under-enforce” under section 173(3) of the 1990 Act. As such, in this case requirements i) to iii) serve the purpose of remedying a breach of planning control and requirements iv) to vi) the purpose of remedying any injury to amenity.
4. The appellant considers that it is excessive to require the demolition of the building as they consider it was erected as permitted development. However, little evidence has been submitted to support the appellant’s assertion that the appeal building was erected and used for a purpose incidental to the enjoyment of the dwellinghouse, 227 Bournemouth Road, prior to it being used as self-contained residential accommodation. Requirements i) to iii) of the EN are necessary to remedy the breach by returning the land to its former condition prior to the breach taking place. In any case, the appellant would have a choice and could comply with requirements iv) to vi) which do not require the demolition of the building.
5. The appellant also considers that requirements v) and vi) are unnecessary as the use of the building as self-contained residential accommodation would cease, the installation of fixtures, fittings and appliances were internal works and fall outside the definition of development as set out in section 55(2)(a) of the 1990 Act, and the removal of pipes and their connections to the sewer would require a substantial financial payment to contractors and is unnecessary.
6. However, the provision of the kitchen area is part and parcel of the breach of planning control which is the erection of a self-contained dwelling. It appears that the appellant considers that all the pipe work within and to the appeal building would have to be removed to comply with requirement v). I consider that the wording of requirement v) is not precise and the reference to *‘sink, work surfaces, cooker, white goods, cooker fume extractor unit, kitchen style wall and floor cupboards’* is superfluous. As such, I intend to delete the wording of requirement v) and substitute it with *‘Remove the fixtures, fittings, appliances and hot and cold-water service and foul waste drainage pipes from the kitchen area’*. Hot and cold water and toilet facilities would still be available within the appeal building as the EN does not require the bathroom fixtures and fittings to be removed.
7. Given that the varied EN does no more than seek to achieve the purposes of section 173(4) of the 1990 Act, it is not excessive. While the steps required are not excessive, the appeal on ground (f) succeeds as I am varying the steps required by the EN.

Conclusion

8. For the reasons given above, I conclude that I shall vary the EN prior to upholding it. The appeal on ground (f) succeeds to that extent.

D Boffin

INSPECTOR