



Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 24 November 2025

Appeal Ref: APP/C3620/C/25/3361153

Mark Oak Nursery, Cobham Road, Fetcham, Leatherhead KT22 9SA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Kevin Allen against an enforcement notice issued by Mole Valley District Council.
 - The notice was issued on 17 January 2025.
 - The breach of planning control as alleged in the notice is: The extension and conversion of buildings to create a detached dwelling in the approximate location hatched in blue on the attached plan.
 - The requirements of the notice are: (i) Cease the use of the building as a dwellinghouse; (ii) Demolish and remove the building and associated base; (iii) Remove from the land all building materials and rubble arising from compliance with requirement (ii) above; (iv) Regrade the land to match the profile of the land immediately to the north, south and east and reseed the land with native species grass mix.
 - The period for compliance with the requirements is: 9 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. It is directed that the enforcement notice is varied by deleting the words "Demolish and remove the building and associated base" from requirement (ii) and replacing them with "Demolish and remove from the land the extensions to the previous buildings and any associated bases". Subject to this variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The grounds of appeal made under s174(2)(f) and (g) of the 1990 Act do not require any visual assessment of the appeal site to determine the appeal. Moreover, the grounds of appeal do not turn on judging the impact of the development carried out on, for example, the character and appearance of the area or the Green Belt. Consequently, there was no need to visit the appeal site and I have determined the appeal based on the submitted documentary evidence. No appeal party has been prejudiced by this course of action.
3. I am aware that there are two further appeals relating to this site (PINS Refs: APP/C3620/C/25/3358752 & APP/C3620/W/25/3360473). However, they relate to different development and can be considered separately from this appeal.

Ground (f)

4. Given that the enforcement requires the unauthorised residential use to cease and for the building where that use takes place to be removed, the purpose of the notice falls under s173(4)(a) of the 1990 Act which is to remedy the breach of planning control. However, the remedy may only be achieved by making the development comply with the terms (including conditions and limitations) of any planning

permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place. Moreover, an appeal under s174(2)(f) of the 1990 Act against an enforcement notice aimed at remedying the breach of planning control is based on the claim that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy that breach. Appeals must be strictly determined based on the wording of the statute.

5. In this context, as the notice alleges the extension of buildings, as far as the operational development is concerned, the only solution available to remedy the unauthorised operational works is to restore the land to its condition before the breach took place by removing those extensions and associated bases. The notice cannot require the entirety of the building(s) to be removed. Although the Council states it is not clear what may have been there previously, other than there were two buildings, the appellant is best placed to know how they were extended and what, therefore, needs removing to remedy the breach of planning control. To this extent, the ground (f) appeal succeeds. I shall vary requirement (ii) accordingly.
6. If it is the case that parts of those original buildings were demolished and/or modified as part of extending them, such as walls and roofs, and the appellant wishes to rebuild or reinstate those parts of the buildings, that is a matter for them away from this appeal. So too would the matter of whether planning permission would be required for any such works.

Ground (g)

7. As this appeal decision is being issued towards the end of November 2025, the compliance period of 9 months will end roughly by late August 2026. That includes significant times of usually better weather in spring and summer when the physical works of demolition and removal of the associated waste could take place not hindered by wet and inclement weather conditions. The lead up to those works taking place could be used to plan for their implementation and arranging where the resulting waste could be lawfully deposited. If there was any legitimate overrun, the Council has the power under s173A(1)(b) to relax any requirement of an enforcement notice, including extending any period specified in accordance with s173(9) of the 1990 Act. That would, however, be at the discretion of the Council and depend on the prevailing circumstances at that time.
8. The ground (g) appeal fails.

Conclusion

9. For the reasons given above, I conclude that requirement (ii) of the notice is excessive to remedy the breach of planning control. I shall vary the enforcement notice prior to upholding it.

Gareth Symons

INSPECTOR