



Appeal Decision

Site visit made on 9 January 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2024

Appeal Ref: APP/B9506/C/22/3307895

Land at Tansy, Kiln Lane, Redlynch, Salisbury SP5 2HT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Harvey Euridge against an enforcement notice issued by New Forest National Park Authority.
 - The enforcement notice was issued on 25 August 2022.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a building in the approximate position shown shaded blue attached to this Notice.
 - The requirements of the notice are:
 - 5.1 Demolish the building shown in the approximate position shown shaded blue on the plan attached to this Notice
 - 5.2 Remove all materials and debris arising from compliance with requirement 5.1 from the land affected
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

The appeal on Ground (f)

2. The appeal on this ground is "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 any breach of planning control which may be constituted by those matters (i.e., the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
3. The enforcement notice requires the demolition of the unauthorised development, and therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity. It is not therefore excessive to require the unauthorised development to be demolished
4. The appellant considers that the removal of the kitchen and bedroom would ensure that the outbuilding complies with policy DP37 of the New Forest National Park Local Plan 2016-2036 (the Local Plan), adopted 2019, and has suggested the imposition of a planning condition to secure this.

5. However, since there is no appeal on ground (a), there is no deemed planning application. Therefore, I cannot assess the planning merits of the case, such as whether the development complies with planning policy or impose any conditions. Furthermore, the planning application for the subject building was refused and dismissed on appeal¹. As such, there is no planning permission for the unauthorised development.
6. As the notice does no more than seek remedy of the breach, it is not excessive. Therefore, it is not possible to vary the notice in the ways suggested by the appellant whilst achieving the purpose of the notice. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.
7. On this basis, the Ground (f) appeal fails.

Conclusion

8. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

R Satheesan

INSPECTOR

¹ Appeal Ref: APP/B9506/W/21/3289188 dismissed on 23 May 2022.