

APPEAL BY MRS SOPHIE THORLEY AGAINST AN ENFORCEMENT NOTICE ISSUED ON LAND AT HAZELEY PADDOCKS, KEELE ROAD, KEELE

<u>Enforcement Notice issued</u>	19 May 2021
<u>Appeal Decision</u>	Dismissed subject to a variation of the enforcement notice
<u>Costs Decision</u>	Refused
<u>Date of Decisions</u>	14 April 2022

Appeal Decision

The enforcement notice as served required the removal of a pergola and concrete plinth/hardstanding and all material used in the construction from the land within 4 months from the date that the notice takes effect.

Ground (c) – that the matters alleged in the notice do not constitute a breach of planning control

The Inspector did not accept the appellant's argument that pergola/chicken run was not a building and didn't constitute operational development. In addition the Inspector didn't accept that the structure and the concrete plinth were permitted development given that they aren't sited within the curtilage of the dwelling, and in any event permitted development rights have been removed by condition. Finally it was not accepted that the structure was approved as part of the approved landscaping scheme.

The Inspector concluded that the pergola and concrete plinth are development and that a breach of planning control has occurred. The appeal on ground (c) therefore failed.

Ground (a) – deemed planning permission should be given.

The Inspector identified the following main issues:

- Whether the development is inappropriate development in the Green Belt;
- The effect on the openness and purposes of the Green Belt; and
- Is the harm by reason of inappropriateness, and any other harm, clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Inappropriate development in the Green Belt

Having found that the pergola, initially constructed as a car port then more recently altered to house chickens, is a building the Inspector noted that it did not fall within any of the listed exceptions within paragraph 149 of the National Planning Policy Framework (the Framework) and concluded that it is inappropriate development in the Green Belt.

In accordance with paragraph 150 of the Framework, as the concrete plinth is an engineering operation the Inspector noted that it may not be inappropriate in the Green Belt provided it preserves its openness and does not conflict with the purposes of including land.

Openness and purposes

The Inspector considered that the use of the concrete plinth for storage results in the loss of openness of the Green Belt, the impact of which is moderate. Furthermore, its location conflicts with one of the purposes of the Green Belt, to assist in the safeguarding the countryside from encroachment. The Inspector therefore considered the concrete plinth to be inappropriate in the Green Belt.

The Inspector considered that the pergola/chicken run also has a moderate impact on the openness of the Green Belt.

The Inspector concluded that the unauthorised developments are inappropriate development and cause harm to the openness of the Green Belt contrary to policy.

Green Belt Balance

The Inspector considered that very special circumstances do not exist to justify the development.

Ground (f) – the requirements are excessive to achieve the purposes of the notice.

The Inspector accepted that the pergola could be modified to accord with what was approved as part of the landscaping details and as such considered it excessive to require the whole structure to be demolished. The Inspector amended the requirements as set out in the notice to require only the removal of fencing/gates and netting that are attached to the structure and not the structure in its entirety. The appeal on ground (f) therefore succeeded in so far as it relates to the pergola/chicken run.

The Inspector did not accept that there were lesser steps that would achieve the statutory purposes behind the notice in as far as the concrete plinth is concerned and concluded that the appeal on ground (f) failed in this regard.

Ground (g) – whether the compliance period is reasonable

The Inspector considered that six months was a reasonable compliance period and as such concluded that the appeal on ground (g) failed.

Costs Decision

The Inspector noted from the evidence provided the Council clearly investigated the matters alleged in the enforcement notice, took a decision not to approve the unauthorised works and to serve an enforcement notice to removed and rectify the breaches of control. No substantive evidence was provided that the Council behaved unreasonably in relation to procedure matters at the appeal.

The enforcement notice clearly set out the Council's reasons for issuing the noticed and the Council supported those reasons with a statement of case that addressed all of the appellants' grounds of appeal.

The Inspector found that unreasonable behaviour resulting in unnecessary expense had not been demonstrated.

Recommendation

That the appeal and costs decision be noted.