

Appellant's comment

APP/Z3635/C/23/3320593

Enforcement notice dated 16 March 2023 attacking development at Riverbank, 1 The Creek, Sunbury-on-Thames

Grounds A/F

1. The appellant at the Inquiry will contend¹ planning permission should be granted (should other grounds fail) for everything that exists, or alternatively such developments as considered appropriate given so many operations attacked would normally be carried out pursuant to permitted development within a residential curtilage.
2. It is excessive to require demolition of the dwelling given it is not materially different to that permitted under consent 17/01464/FUL. A more proportionate step would be demolition of only the small side enlargement, if considered harmful.
3. It is excessive to require demolition of the other work enforced against given planning permission 17/01464/FUL for the house and garage, walls and platform, and condition 13 thereof did not remove permitted development rights for walls, hard surfaces etc.
4. To this extent, the house (bar the tiny side enlargement) garage walls and platform were and remain lawful as they exist today. Such therefore constitutes a 'fall back' of very significant weight, fundamental to this case since in view of the appellant's slight digression from the approved plans/tiny side enlargement, having to demolish and rebuild would be wasteful and harmful to amenities of neighbours and the environment; put short, pointless.
5. The EN steps are punitive, not remedial, thus contrary to Law (*Tapecrow*).
6. The consequence of the Inspector error in stating, contrary to established caselaw, that planning permission 17/01464/FUL had not been implemented clearly encouraged the council to issue the notice attacking virtually everything on the site, which it would probably have not done otherwise. This calamitous (and conspicuously unreasoned) mistake bleeds into not only these, but other grounds. The council is under a legal obligation to constantly review the expediency of its enforcement action. It has been encouraged to withdraw its notice in order to limit wasted costs.
7. Given its riverside location, a boathouse is also demonstrably 'in character' in this distinctive location, something you would reasonably expect and a widespread feature of the upper River Thames. Terracing and planters, steps, walls and pillars are also features that one would ordinarily expect within residential curtilage, and fit the character and appearance of the area.
8. The house footprint is otherwise exactly as approved. Its height and depth, design, materials are all as the council wanted such that its character and appearance are as expected and policy compliant. The small digression is out of sight on the North side, and harmless.
9. Removal of permitted development rights is only appropriate in exceptional circumstances according to the NPPG. Had a more reasonably targeted condition been imposed by condition 13 of 17/01464/FUL the digression would have been permitted development.
10. It will be demonstrated that the development does not pose a flood risk.

¹ Via witnesses with proofs and live evidence including expert evidence

Grounds B/C

The Inspectorate decision of 3 May 2022, case number 3268858, concluded that planning permission 17/01464 expired on 18 April 2021. This was flawed in fact and law.

The 17/01464 approval 'description' refers to "*erection of a..... dwelling following demolition of the existing building*". It was common ground that the building was demolished within time; this implemented the planning consent, it did not lapse.

The allegation of an unlawful dwellinghouse and other buildings is factually wrong.

Furthermore, whilst the consent removed permitted development rights for extensions and outbuildings, it did not prevent other operations which are permitted development. The notice attacks the following; terracing, planters, steps and hardstanding. The appellant will argue that these were permitted development.

Ground D

The appellant will prove all enforced work was substantially completed more than 4 years prior to the notice, and such will be corroborated by independent evidence at the inquiry.

Ground G

The time given to comply is too short. Any appellant is entitled to believe that their appeal will succeed. Consequently, there is no requirement to enter any contractual relationship with suitable experts following careful selection, until after the decision letter is issued. Demolition of the allegedly unlawful development would require crushing and screening on site because it is a substantial exercise in a sensitive location right next to the River Thames. Given the 'fall back' planning permission, it would be appropriate to factor this into timing; it is doubtful a contractor could be engaged in 4 months, never mind undertake and complete all work. Recycling would be appropriate and the pointlessness of first restoring the site before new building is obviously not taken into account by the council.

List

Dated imaging, documents and statements.