



2A School Road Ashford – 07/00075/ENF.

Scale 1:1,250

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Planning Committee

18 October 2017



Enforcement Ref:	07/00075/ENF
Site Address	2a School Road, Ashford, TW15 2BW
Breach	Failing to comply with County Court Injunction to demolish an unlawful outbuilding.
Ward	Ashford Common.
Recommended Decision	That direct action be taken by Spelthorne Borough Council to achieve compliance with the County Court Injunction.

Purpose of Report

At the Planning Committee meeting on 19 October 2016 it was agreed that the Council should take direct action to secure the removal of the unlawful outbuilding at 2A School Road, Ashford. The purpose of this report is to update the Committee of the events since this time and to reconfirm that direct action should now be pursued.

1. Background

- 1.1 In early 2007 Mr Van de Beeck unlawfully constructed an outbuilding for residential purposes on land adjacent to his property at 2a School Road, Ashford.
- 1.2 On 31 August 2007 Mr Van Der Beeck made a retrospective planning application to retain the building, this was refused planning permission on 9 October 2007.
- 1.3 On 6 November 2007 an Enforcement Notice, reference 07/00075/ENF, was issued by the Council in respect of the outbuilding at 2a School Road. This notice required the cessation of the use of the outbuilding as a separate residential accommodation by the total demolition of the outbuilding, such steps to be completed within 6 months of the Notice taking effect.
- 1.4 Mr Van der Beeck appealed against this notice. On 24 September 2008 a Planning Inspector dismissed the appeal and upheld the Enforcement Notice.

- 1.5 Mr Van der Beeck subsequently made further appeals through the Civil Courts including the High Court. All of his appeals were refused.
- 1.6 Mr Van Der Beeck confirmed on 14 December 2010 that the building was still occupied by himself and his wife.
- 1.7 There was a further application for planning permission on 3 December 2011, and yet a further planning application on 21 December 2011. Both of these applications were refused. Both refusals were appealed against and both appeals were dismissed on 25 March 2013.
- 1.8 Further civil action continued and concluded with an Injunction made by the circuit judge in the County Court at Guildford on 21 October 2015. This gave the defendant until 4pm on the 30 March 2016 to comply with the Injunctive Order, which reinforced the requirements of the original enforcement notice.
- 1.9 This Injunctive Order has not been complied with to date and Mr Van Der Beeck is in Contempt Of Court.
- 1.10 On 6 September 2016 Spelthorne Council's Legal Department wrote to Mr Van Der Beeck, via his solicitor, informing him that as he had failed to comply with the Court Order and failed to comply with the Enforcement Notice. The Council was giving him formal notice that it now intended to demolish the unauthorised outbuilding. Such demolition works would not commence before 1 October 2016.
- 1.11 On Friday 14 October 2016 at Guildford Crown Court, Mr Van Der Beeck informed Spelthorne Council, via his Counsel, that he was not willing to comply and demolish the outbuilding.
- 1.12 At the Planning Committee meeting on 19 October 2016 it was agreed that the Council should take direct action to secure the removal of the unlawful outbuilding at 2A School Road, Ashford.
- 1.13 Mr Van Der Beeck made an application to the Court to vary the injunction order and Spelthorne Council applied to have Mr Van Der Beeck committed for failing to comply with the order. This was heard on 26 April 2017. Mr Van Der Beeck's application was dismissed and Spelthorne Council's application was granted as the breach of the injunction had been proved. Mr Van Der Beeck was given four months to demolish the building (until the end of August 2017). This has not been complied with.
- 1.14 The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14 are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and

those who are affected by a breach of planning control. In view of the need to enforce planning law for the public good it is not considered that this would contravene the Human Rights Act. Given the harm caused to the amenity it is considered to be expedient to take enforcement action against this unlawful building.

2. Recommendation

- 2.1 It is now considered that the Council should take direct action to secure the removal of the outbuilding which is the subject of the 2007 Enforcement Notice. In light of recent court hearings with the landowner, legal advice has been provided on the ability to use direct action as a way of resolving this long standing enforcement matter.