

Planning Committee

19 October 2016



Enforcement Ref:	07/00075/ENF
Site Address	2a School Road, Ashford, TW15 2BW
Breach	Failing to comply with an enforcement notice to secure the cessation of the use of the outbuilding as separate residential accommodation by the total demolition of the outbuilding, and 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 notice and the County Court Injunction.

MAIN REPORT

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. Compliance with the Notice, being demolition of the outbuilding, was therefore required by 24 March 2009.
- 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, with a further inspection on 2 February 2012. 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 was not, and has not since, been complied with and therefore Mr Van Der Beeck is now in Contempt Of Court.
- 1.10 In the planning proceedings, Mr Van Der Beck admitted that the Enforcement Notice had been issued, that it was a valid Enforcement Notice, that it had not been set aside, and that it had not been complied with.
- 1.11 Mr Van De Beeck failed to demolish the outbuilding by the required date, and failed to demolish it, or any part of it, by August 2016. This is a clear breach on the Enforcement Notice.
- 1.12 On 6 September 2016 Spelthorne Council 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 will not commence before 1 October 2016.
- 1.13 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.

2. Recommendation and urgent reasons

- 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. Direct action should always proceed with due haste to ensure a speedy closure of the matter. There are further court dates pending and it would be expedient to take such action as soon as possible rather than defer a decision to the next Committee meeting.