

Appeal Decision

Site visit made on 19 October 2016

by Mr K L Williams BA, MA, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 November 2016

Appeal Ref: APP/J3530/C/16/3146547

Land at 48-50 Beach Station Road, Felixstowe, Suffolk, IP11 2EY

- 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 Mrs Vera Palmer against an enforcement notice issued by Suffolk Coastal District Council.
- The enforcement notice, numbered ENF/2015/0288/DEV, was issued on 9 February 2016.
- The breach of planning control as alleged in the notice is the change of use to an operating centre for commercial vehicles (a sui generis use) involving the storage and operation of heavy goods vehicles, light vans, and other vehicles, the stationing of modular buildings used as offices and for amenity purposes linked to the use as an operating centre (mess room, toilet, washing and laundry facilities), the use of the land for open storage of vehicles and the connection of services to the modular buildings.
- The requirements of the notice are to cease the use of the land as an operating and storage centre for commercial vehicles and remove all such vehicles and all modular buildings being used as offices or for amenity purposes linked to the use of the land as an operating /storage centre and remove all service connections supporting that use from the land.
- The period for compliance with the requirements is 3 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.

Summary of Decision: The appeal succeeds. The enforcement notice is varied and upheld.

Preliminary Matters

1. The appeal initially included ground (d) but that ground of appeal was withdrawn by the appellant. I have therefore not considered it.

The Enforcement Notice Allegation

2. The appeal site is a narrow strip of land which is to the north of Beach Station Road and adjacent to a railway line. The enforcement notice alleges an unauthorised change of use to an operating centre for commercial vehicles. The allegation as set out in the notice goes on to describe various activities which that use involves. This additional explanation is not essential but it is clear that the notice does not, for example, allege any mixed use. The notice does not require variation or correction in this respect and this matter does not affect its validity.
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The Appeal on Ground (f)

3. The appeal is limited to ground (f). The enforcement notice alleges an unauthorised change of use to an operating centre for commercial vehicles and requires the cessation of that use. Its purpose is to remedy the breach of planning control. The issue on ground (f) is whether the steps required to be taken exceed what is necessary to remedy that breach of planning control. As the appellant observes, the reference in requirement (i) to cessation of use as a "vehicle operating and storage centre for commercial vehicles" does not accurately reflect the allegation of use as an operating centre for commercial vehicles. The requirement is excessive in that respect and I shall vary the notice accordingly.
4. Requirement (ii) addresses the removal of vehicles and modular buildings used as offices or for amenity purposes linked to the unauthorised use and of service connections supporting that use. The appellant does not suggest that this requirement concerns matters not integral to or part and parcel of the unauthorised use. Nor is it contended that they are related to some other, lawful use of the land. Their inclusion is not excessive and variation of the notice on this matter is not required.

Conclusion

5. Having regard to the above and to all other matters raised the appeal should succeed on ground (f). The notice should be varied and upheld as set out in the Formal Decision.

Formal Decision

6. I allow the appeal and direct that the enforcement notice be varied by the replacement of the words in paragraph 5 with the words: "Cease the use of the land as an operating centre for commercial vehicles and remove from the land all such vehicles, all modular buildings used as offices or for amenity purposes linked to that use and service connections supporting that use. I uphold the enforcement notice subject to the above variation.

K Williams

INSPECTOR