
Appeal Decision

Site visit made on 28 February 2017

by Chris Preston BA(Hons) BPI MRTPI

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

Decision date: 2 March 2017

Appeal Ref: APP/P1805/C/16/3162562

Land at North Worcestershire Equestrian Centre, Shangri-La, Woodfield Lane, Romsley, Halesowen B62 0LR

- 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 Miss Helen Blair against an enforcement notice issued by Bromsgrove District Council.
 - The enforcement notice, numbered 2015/0147/ENF, was issued on 10 October 2016.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a wooden shed with concrete base.
 - The requirements of the notice are: (1) Permanently remove the unauthorised development (which for the avoidance of doubt shall include breaking up the concrete base) from the Land; and (2) Remove from the Land all building materials and rubble arising from the compliance with the first requirement 1) above and restore the Land to its condition before the breach took place by levelling the ground and re-seeding it with grass.
 - The period for compliance with the requirements is four months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed on ground (f), and the enforcement notice is varied by the deletion of the words "and re-seeding it with grass" from the second requirement in section 5. Subject to that variation the enforcement notice is upheld.

The Appeal on Ground (f)

2. An enforcement notice may be served to achieve a number of specified purposes, as outlined at subsections (3) and (4) of Section 173 of the Town and Country Planning Act 1990. Those purposes are to remedy the breach of planning control by making any development comply with the terms of any planning permission which has been granted in respect of the land, by discontinuing the use of the land, by restoring the land to its former condition before the breach took place, or by remedying the injury to amenity which has been caused by the breach. In this case, it is clear that the notice seeks to ensure that the breach of planning control is remedied by restoring the land to its condition before the breach took place.
 3. The breach of planning control relates to the erection of a timber shed, which was in use as a tack-room on the day of my visit, and the associated concrete base. There is no dispute that the works, including the erection of the shed
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and the construction of the concrete base, amount to operational development for which planning permission is required. No planning permission has been granted for the development and the shed and the base therefore represent a breach of planning control. An appeal on ground (f) is made on the basis that the steps required by the notice exceed what is necessary to remedy the breach of planning control or the injury to amenity, as the case may be. As set out above, the requirements in this case seek to remedy the breach and restore the land to its former condition.

4. The appellant does not seek to argue that the removal of the shed is excessive but the appeal on ground (f) relates to the concrete base and the requirement to re-seed the land. Given that the concrete base forms part of the breach, the requirement to remove it does not go beyond what is required to remedy the breach. I note the appellant's case that the base would be relatively inconspicuous if retained and useful for parking vehicles but those submissions would be more appropriate for consideration in an appeal on ground (a) which is that planning permission should be granted for the development. No ground (a) appeal has been submitted and I cannot take any arguments regarding the planning merits of the base into account under ground (f). The nature of a ground (f) appeal is very narrow as set out above.
5. In terms of the requirement to re-seed the land the appellant notes that the rest of the former paddock is covered in hardcore and used for the parking of vehicles. That was the case at the time of my visit and I have no reason to suppose that the area on which the concrete base has been laid was any different to the immediately surrounding ground. Given that it is unlikely that the ground was grassed over prior to the work a requirement that it should be re-seeded appears to me to go beyond what is required to remedy the breach. A requirement to return the land to its former condition would suffice. The appeal succeeds to that limited extent and I shall vary the terms of the notice accordingly.

Other Matters

6. I have noted reference to the fact that the hedge immediately adjacent to the timber shed has been cut back by the owner of the neighbouring property. Issues relating to the ownership of the hedge are private matters that are outside the scope of my decision and, regardless of that point, the issue has no bearing on my decision in relation to ground (f), as set out above.

Chris Preston

INSPECTOR