
Appeal Decisions

Site visit made on 8 May 2017

by Elizabeth Jones BSc (Hons) MCTP MRTPI

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

Decision date: 6 July 2017

Appeal A Ref: APP/J1860/C/16/3162209

Appeal B Ref: APP/J1860/C/16/3162210

Holywards Farm, Moseley Road, Hallow, Worcestershire WR2 6NL

- 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 appeals are made by Mr David Corfield (Appeal A) and Mrs Nicky Corfield (Appeal B) against an enforcement notice issued by Malvern Hills District Council.
- The enforcement notice, numbered E/16/00115/BOC3, was issued on 3 October 2016.
- The breach of planning control as alleged in the notice is failure to comply with condition No 22 of a planning permission Ref 09/00901/FUL granted on 12 April 2010.
- The development to which the permission relates is "Conversion of existing barns to form two dwellings and new build garage block". The condition in question is No 22 which states that "Before the dwellings are first occupied, the agricultural buildings identified to be removed on drawing 0728/05a shall be permanently dismantled and removed from the site and the land shall be restored in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority". The notice alleges that the condition has not been complied with.
- The requirements of the notice are:
 - 5.1 To demolish the agricultural building as edged red on the attached plan.
 - 5.2 Lawfully remove all resulting materials from the Land edged red on the attached plan in compliance with 5.1.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.

Summary Decisions: The appeals are dismissed and the enforcement notice is upheld with a variation.

Procedural Matter

1. The appellant has made a separate appeal¹ against the Council's refusal to grant prior approval for the conversion of a building to form a new dwelling on land at Holywards Farm. This refusal relates to a different building to that which is subject to these appeals. I am appointed to determine the other appeal, but have made separate decisions based only on the evidence relevant to each.

The appeal on ground (g)

2. Ground (g) is that the time given to comply with the requirements of the notice is too short. Given the date of this decision the arguments put forward regarding finding a contractor and/or carrying out the works over the Christmas/New Year/winter period are no longer relevant.

¹ APP/J1860/W/16/3165296

3. The appellants indicate that they are not in a financial position to carry out the works. The Council refer to planning permission Ref: 09/00901/FUL for the '*conversion of existing barns to form two dwellings and new build garage block*' dated 12 April 2010 with reference to the private ownership of one of the barn conversions. The Council considers that the appellants should have taken into account their financial situation and put the necessary measures in place following the commencement of the works in connection with this planning permission. Be that as it may the question for ground (g) is whether the period is reasonable now.
4. The notice gives two months to demolish the agricultural building. Notwithstanding the appellants' financial situation, it seems to me that two months would give the appellants relatively little time to instruct a contractor and for the works to be carried out.
5. I note the appellants' comments in relation to the impact of the building on the living conditions of neighbouring residents. The appeals on ground (g) cannot be used to consider the planning merits of retaining the building and in any case afford insufficient justification for extending the compliance period to eighteen months.
6. Having regard to the submissions from both parties including those in relation to enforcement notice Ref: E/16/00211/BOC3 concerning mobile homes, it would be excessive to give the appellants 18 months to comply with the notice as a whole. I consider that a period of six months would represent a more reasonable length of time which would strike the appropriate balance between the legitimate interests of enforcing planning control and the interests of the appellants. To this extent, the appeals on ground (g) succeed.

Formal Decision

7. It is directed that the enforcement notice be varied by the deletion of the words "two calendar months" in paragraph 6.1 and the substitution therefor of the words "six months" as the time for compliance.
8. Subject to this variation, the appeals are dismissed and the enforcement notice is upheld.

Elizabeth Jones

INSPECTOR