
Appeal Decisions

Site visit made on 1 August 2017

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

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

Decision date: 11 August 2017

Appeal A Ref : APP/Z3825/C/16/3162188

Appeal B Ref : APP/Z3825/C/16/3162189

Land at Dukes Paddock, Dukes Hill, Thakeham, Pulborough, West Sussex, RH20 2LT.

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mr Craig Smith and Appeal B by Ms Donna Curtis against an enforcement notice issued by Horsham District Council.
- The notice was issued on 2 September 2016.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from use for agriculture to use for the stationing of a mobile home for residential accommodation, associated residential paraphernalia and the stationing of motor vehicles on the land.
- The requirements of the notice are 1. Permanently stop using the land for residential purposes; 2. Permanently remove from the land the mobile home and all residential paraphernalia associated with the mobile home; 3. Permanently remove from the land all motor vehicles; 4. Remove from the land all materials and debris resulting from taking the above steps and 5. Make good the land to restore it to its previous condition of grass.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeals succeed in part and the enforcement notice is upheld as varied in the terms set out in the Formal Decision.

Appeals A and B

Ground (f) appeal

1. This ground of appeal is whether having regard to the purpose for which the notice was issued, the steps exceed what is necessary to meet that purpose.
2. Section 173 of the 1990 Act as amended indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first is to remedy any breach of planning control that has occurred and the second is to remedy any injury to amenity which has been caused by the breach.
3. The notice requires the unauthorised use to cease. It therefore seeks to remedy the breach of planning control.
4. The Appellants argue that the requirement of the notice to remove motor vehicles and temporary structures is excessive. They say that the

horseboxes and covered storage areas on the site are agricultural in nature and used for storage of tools and machinery used to tend the land and livestock.

5. The requirements of the notice should reflect the description of the breach of planning control and there is no appeal before me that the alleged breach has not occurred. The motor vehicles, horseboxes and covered storage are covered by the requirements of the notice only in so far as they are being used as part of the residential use of the site.
6. I therefore find the requirements of the notice not to be excessive and consequently the ground (f) appeal does not succeed.

Ground (g) appeal

7. This ground of appeal is that the period for compliance is unreasonably short. The notice has a period for compliance of six months. The Council (and Thakeham Parish Council) argue that the Appellants submitted a planning application in 2015 and have had sufficient time to comply. The Appellants draw to my attention difficult personal circumstances that led them to reside on the land and their need to do so for a further temporary period. They explain that they were not aware of the refusal of planning permission until the issue of the notice the subject of this appeal as post was not delivered to this rural location and I have no reason to doubt this. They ask that the period for compliance be extended to 18 months or two years to enable alternative accommodation to be found.
8. Compliance with the notice concerns the Appellants' home and the rights of the Appellants and family members must be taken into account. Interference with the way the Appellants use the land must be proportionate taking into account the conflicting considerations of private and public interest.
9. I have also taken into account the potential difficulties in satisfying the requirements of the notice during winter months. I consider a period of ten months to be a reasonable time in which to expect the requirements to be undertaken. It would strike an appropriate balance between conflicting public and private interest and be proportionate so as not to violate individuals' rights. To this limited extent the appeal on ground (g) succeeds.
10. I conclude that a reasonable period for compliance would be ten months and I am varying the notice accordingly, prior to upholding it. The appeal under ground (g) succeeds to that extent

Formal Decision

11. The appeals are allowed and the enforcement notice is varied by deleting six months from paragraph 6 and substituting ten months. Subject to this variation the enforcement notice is upheld.

S. Prail

Inspector