
Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 15 October 2019

Appeal ref: APP/M1005/C/19/3228057 & 3228058

Land at Rakestones Cottage, Kirk Ireton, Ashbourne, Derbyshire, DE6 3JU

- The appeals are made under section 174 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991.
- The appeals are brought by Mr Ben & Mrs H M Baker against an enforcement notice issued by Amber Valley Borough Council.
- The notice was issued on 3 April 2019.
- The breach of planning control as alleged in the notice is "Without planning permission the creation of a track and hardstanding (approximate location shown crossed hatched in black on the attached plan) and storage building (approximate location shown hatched in blue on attached plan)".
- The requirements of the notice are: "i. Remove the track and hardstanding from the land and reseed. (as shown on the attached plan). ii. Remove the storage building from the land (approximate location shown hatched blue on the attached plan)".
- The period for compliance with the requirements of the notice is: "i & ii Within five months of this notice taking effect (8 October 2019).
- The appeals are proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeals are dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The basis of the appellants' case is that more time is required to comply with the notice in order to find an alternative site for storage of large bulky and valuable items. More time is also requested to obtain evidence and statutory declarations from previous site owners with a view to submitting a Lawful Development Certificate (LDC) application. To this end, they suggest the compliance period be extended to 12 months.
2. However, I note that some 5 months have elapsed since the appeals were submitted with enforcement action effectively suspended. As the compliance period will begin again from the date of this decision, the appellants will effectively have had some 10 months in which to take the steps they have described and to comply with the requirements of the notice. I consider this period to be more than reasonable for the appellants to find an alternative site, obtain the necessary LDC evidence and to comply with the requirements of the notice.

3. In these circumstances, I see no good reason to extend the compliance period further and consider the 5 months given in the notice to be adequate. The ground (g) appeals fail accordingly.

Formal Decision

For the reasons given above, the appeals are dismissed and the enforcement notice is upheld.

K McEntee