



Appeal Decision

Site visit made on 28 January 2020

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 23 February 2020

Appeal Ref: APP/P1805/C/19/3234884

Land at Meadow Bank Farm, Stoney Lane, Broad Green, Birmingham, Worcestershire B48 7DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Nicholas Pinfield against an enforcement notice issued by Bromsgrove District Council.
- The enforcement notice was issued on 8 July 2019.
- The breach of planning control as alleged in the notice is: without planning permission,
 - a. the carrying out of a material change of use of the Land from agricultural use to residential use and storage of containers for purposes incidental to that use; and
 - b. the carrying out of operational development consisting of the erection of a dwellinghouse in the location marked 'X' on the attached plan.
- The requirements of the notice are to:
 - a. Cease occupancy of the dwelling for the purposes of residential habitation;
 - b. Demolish the dwelling to pad level and remove all resultant materials and any domestic paraphernalia from the Land;
 - c. Remove the containers stored in the location marked 'Y' on the attached plan from the Land.
- The period for compliance with the requirements is:
 - a. (4a) 8 months;
 - b. (4b) 12 months;
 - c. (4c) 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the 1990 Act as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

Preliminary Matter

1. The appellant claims that the appeal site was previously used lawfully for equestrian purposes, as opposed to agricultural uses as stated in the notice. Although it is helpful to specify the previous use, it is not strictly necessary to do so. Hence, the matter could be addressed by the deletion of the previous use from the first allegation. This would not affect the alleged breach of planning control, nor the grounds pleaded. I am satisfied that I can make this correction without injustice to the appellant or the local planning authority.
2. The appellant states that requirements a) and c) in paragraph 4 of the notice have been complied with. The occupancy of the dwelling for residential purposes has ceased and the containers have been removed. This is consistent with what I saw on site.

3. There is no ground (a) appeal and associated application for deemed planning permission. This is because the appellant is seeking to retain the unauthorised building for an office use and I understand that a planning application has been submitted in relation to this proposal (January 2020). For the avoidance of doubt, the planning merits of that development are not before me. My consideration of this appeal is confined to the grounds pleaded, relevant law and judicial authority. Matters such as whether the openness of the Green Belt would be preserved, and other considerations, are not relevant.

The appeal on ground (f)

4. Section 173(4) 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 the breach of planning control which has occurred. The second is to remedy any injury to amenity which has been caused by the breach. In this case, the reasons for issuing the notice refer to the effect of the development on the Green Belt and the location of the dwellinghouse in relation to goods and services. It is apparent that the purpose of the notice is to remedy the breach of planning control. What must be considered is whether the requirements of the notice exceed what is necessary to achieve that purpose.
5. There is no argument that the erection of the dwellinghouse constitutes a breach of planning control. Therefore, to remedy that breach, the use must cease and the building must be demolished. As explained, the planning merits of the unauthorised development are not before me as there is no deemed planning application.
6. The appellant is seeking to retain the unauthorised building for office use, as set out above. However, there is no mechanism by which I can grant planning permission for the building to be retained and put to a use other than that alleged. The appellant acknowledges this through his acceptance of the need to submit a new planning application.
7. Moreover, there is no guarantee that the Council would grant planning permission and it cannot be argued that the building could be used for another purpose. Without express planning permission, the building would be unlawful irrespective of whether or not it is used as a replacement office.
8. Therefore, I find that the steps required by the notice are necessary to remedy the breach of planning control and the appeal on ground (f) must fail.

The appeal on ground (g)

9. The appeal on ground (g) is that the time for compliance with requirement 4(b) falls short of what should reasonably be allowed. A longer period is sought to enable the appellant to apply for and obtain planning permission.
10. I appreciate the appellant is seeking to resolve the situation and is in dialogue with the Council. However, I find that the 12 month compliance period stated in the notice is a reasonable length of time to allow a planning application to be submitted and determined. There is limited justification for the 24 months sought by the appellant.

Conclusion

11. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction.

Formal Decision

12. It is directed that the enforcement notice is corrected by the deletion of the words "from agricultural use" after "material change of use of the Land" in paragraph 3(a). Subject to this correction the appeal is dismissed and the enforcement notice is upheld.

Debbie Moore

Inspector