



Appeal Decisions

Site visit made on 19 May 2020

by Simon Hand MA

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

Decision date: 27 May 2020

Appeal A: APP/Q3305/C/19/3232127

Land south-west of Oxted House, Fosse Way, Lydford on Fosse, Somerton, Somerset, TA11 7BX

- 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 Mr Graham Watts against an enforcement notice issued by Mendip District Council.
 - The enforcement notice, numbered ENF/2016/0415, was issued on 10 June 2019.
 - The breach of planning control as alleged in the notice is without planning permission, and within the past four years the creation of a vehicular access onto the A37 highway including the removal of a section of hedgerow and the installation of a five bar gate, and the creation of an area of hard surfacing in the position marked with a cross on the attached plan.
 - The requirements of the notice are (i) cease the use of the access, (ii) remove the 5 bar gate and posts; (iii) take up the hard surface area and restore the land to its previous condition; (iv) remove the resultant materials from the land; (v) reinstate the hedgerow.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
-

Appeal B: APP/Q3305/C/19/3232133

Land south-west of Oxted House, Fosse Way, Lydford on Fosse, Somerton, Somerset, TA11 7BX

- 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 Mr Graham Watts against an enforcement notice issued by Mendip District Council.
 - The enforcement notice, numbered ENF/2016/0415, was issued on 10 June 2019.
 - The breach of planning control as alleged in the notice is without planning permission and in the past 10 years the material change of use of the land for the purposes of parking a roadworthy vehicle.
 - The requirements of the notice are to permanently cease the use of the land for the purposes of parking a roadworthy vehicle.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
-

Decisions

Appeal A - 3232127

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the creation of a vehicular access onto the A37 highway including the removal of a section of hedgerow and the installation of a five bar gate, and the creation of an area of hard surfacing on land south-west of Oxted House, Fosse Way, Lydford on Fosse, Somerton, Somerset, TA11 7BX referred to in the notice, subject to the following condition:
 - 1) Within 3 months of the date of this decision the appellant will ensure that the general arrangement for the access and associated visibility splays are set out in accordance with the details as set out on the General Arrangement and Visibility Splays Dwg No: P_01 P4 dated 27 March 2017 and shall be retained as such at all times thereafter.

Appeal B - 3232133

2. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land south-west of Oxted House, Fosse Way, Lydford on Fosse, Somerton, Somerset, TA11 7BX, as shown on the plan attached to the notice, for the purposes of parking roadworthy vehicles subject to the following condition:
 - 1) Within 3 months of the date of this decision the appellant will ensure that the general arrangement for the access and associated visibility splays are set out in accordance with the details as set out on the General Arrangement and Visibility Splays Dwg No: P_01 P4 dated 27 March 2017 and shall be retained as such at all times thereafter.

Background to the Appeals

3. These appeals have a rather complicated history. In May 2019 two enforcement notices were issued and subsequently withdrawn. On the same day two new notices were issued, both with the same date and reference number as each other. The appellant called the notice dealing with the operations (that is the creation of the access and hardstanding) notice A and this is subject to appeal reference 3232127. Notice B refers to the material change of use of the land and this is subject to appeal reference 3232133.
4. Both appeals were subject to a number of grounds of appeal, but these have all been withdrawn apart from the ground (a) appeals. There were identical appeals against both notices made by Mrs Watts, except they did not plead ground (a). As the other grounds have been withdrawn I shall treat the appeals made by Mrs Watts (3232128 and 3232134) as also having been withdrawn.

Reasons

5. During the course of the appeals the Council consulted their highway experts who confirmed that subject to swept path and visibility splay diagrams provided as part of the appeals they would have no objections to the retention

of the development as alleged. The parties are thus in agreement that subject to a condition to ensure the visibility splays are created and retained planning permission can be granted on both appeals.

6. I have visited the site and seen the visibility for myself and have no reason to disagree with this view and shall grant the planning permissions accordingly. I shall vary slightly the description of development from notice B as the material change of use is to the general parking of vehicles and not solely one vehicle. The specific details are controlled by the condition.

Simon Hand

Inspector