



Appeal Decision

by P N Jarratt BA DipTP MRTPI

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

Decision date: 27 September 2021

Appeal Ref: APP/W3330/C/21/3272827

Ludwells Barn, Wrantage, Taunton, TA3 6DQ

- 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 Christopher Fisher Dodd against an enforcement notice issued by Somerset West and Taunton Council.
 - The enforcement notice, numbered E/0201/24/19 - 2, was issued on 1 March 2021.
 - The breach of planning control as alleged in the notice is the construction of an outbuilding shown edged blue on the plan attached to the notice.
 - The requirements of the notice are to remove from the land the outbuilding and all materials resulting from such removal.
 - The period for compliance with the requirements is 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed

The site and relevant planning history

2. The appeal site is adjacent to Ludwell's Farm through which there is a vehicular access to a building which was the subject to a recent appeal against an enforcement notice and which was determined by myself. That appeal (APP/W3330/C/21/3272700) related to an alleged breach of planning control for the use of a building on the land (shown edged green on the plan attached to the notice) as permanent residential accommodation in breach of Condition 3 of planning permission reference 24/00/0020. Subject to a substituted condition requiring the building to be occupied for holiday purposes only, the appeal was dismissed and the enforcement notice upheld.
3. The building subject to this appeal is situated close to the holiday building which the appellant refers to as the 'host' building. As I had carried out a site inspection for the first appeal and I was able to view the outbuilding externally at the same time it was not necessary to carry out a further site visit.

The appeal on ground (c)

4. An appeal on this ground is that there has not been a breach of planning control. The appellant considers that a 'holiday use only' restricted dwelling is a dwelling and benefits from Class E permitted development rights that allows a large range of buildings on land surrounding a house. The appellant refers to

another appeal decision and case law in support. It is stated that the building is used for vehicle storage, tools and material for maintenance, general household storage, gym equipment and a yoga practice area, home office, display area for vintage tools and machinery and a woodworking area which are incidental to the enjoyment of the holiday dwelling. I note that the Council considers that some of these uses are excessive in the context of the size of appeal site, that the floor area of the outbuilding exceeds that of the holiday let and some of the uses are not reasonably required for a holiday let use and are therefore not incidental.

5. However, none of this is material in this appeal as the host building for which the appellant claims Class E permitted development rights is unlawful due to the breach of a condition on the planning permission, as set out above. Article 3(5) (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, indicates that permission granted by Schedule 2 (relating to permitted development rights) does not apply if, in the case of permission granted in connection with an existing use, that use is unlawful.
6. The appeal on this ground fails.

The appeal on ground (g)

7. The appellant has requested that the compliance period be extended from 9 months to 18 months in view of the appellant having to find a new home, removing the contents of the outbuilding, demolishing it and removing the resultant debris.
8. The appellant points out that the host dwelling has been the appellant's home since 2013 and the outbuilding has been in situ since 2018, but in view of my decision on the appeal on ground (g) in APP/W3330/C/21/3272700, there is little justification for the compliance period to be 18 months. The Council's compliance period of 9 months is adequate and proportionate to carry out the requirements of the notice.
9. The appeal on this ground fails.

Peter Jarratt

Inspector