



Appeal Decisions

Site visit made on 12 January 2022

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 7th February 2022

Appeal A Ref: APP/F3545/C/21/3280106

Appeal B Ref: APP/F3545/C/21/3280107

Appeal C Ref: APP/F3545/C/21/3280109

Appeal D Ref: APP/F3545/C/21/3280110

The Barn, Wickhambrook, Newmarket, Suffolk, CB8 8PY

- Appeals A, B, C and D are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeals A and C are made by Mr Colin Young and Appeals B and D by Ms Mandy Moreton against enforcement notices issued by West Suffolk Council.
 - The notices were issued on 23 June 2021.
 - The breach of planning control as alleged in Enforcement Notice (Operational Development) is without planning permission the construction of a new building and subsequent non-compliance with DC/15/2450/PMBPA - Prior Approval Application under Part 3 of the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015 - (i) Change of use of agricultural building to dwellinghouse (Class C3) to create 2 no. dwellings (ii) associated operational development. Consequently, this now consists of a new build and not a change of use.
 - The breach of planning control as alleged in Enforcement Notice (Change of Use) is without planning permission the change of use of the land to the siting of mobile homes for residential use at The Barn, Wickhambrook, Suffolk CB8 8PY (formerly Marks Barn Farm Barn, Farley Green, Stradishall, Suffolk, CB8 8PY).
 - The requirements of Enforcement Notice (Operational Development) are to:
 - 1) Demolish the building and footings known as The Barn, Wickhambrook, Suffolk CB8 8PY (formerly Mark's Farm Barn, Farley Green, Stradishall Suffolk CB8 8PY)
 - 2) Remove from site all resultant debris from the demolition
 - 3) Remove from site all equipment used in the construction and demolition of the replacement building
 - 4) Remove from site all aggregate and building components stored on the site
 - 5) Leave the site in a level and tidy condition.
 - The requirements of Enforcement Notice (Change of Use) are to:
 - 1) Remove all mobile homes and ancillary outbuildings brought onto the land to facilitate the use at the site known as The Barn, Wickhambrook, Suffolk CB8 8PY formally Marks Farm Barn, Farley Green, Stradishall Suffolk CB8 8PY
 - 2) Remove from site all items and articles including hardstanding brought onto site to facilitate the residential use
 - 3) Remove from the site all resultant debris from the removal process
 - 4) Return the site to the condition it was prior to the structures being on site.
 - The period for compliance with the requirements of both notices is 12 months.
 - The appeals are proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Decisions

Appeals A and B

1. It is directed that the Enforcement Notice (Operational Development) is corrected by the substitution of the plan annexed to this decision (Annex 1) for the plan attached to the enforcement notice.
2. Subject to the correction, the appeals are dismissed, and the Enforcement Notice (Operational Development) is upheld.

Appeals C and D

3. It is directed that the Enforcement Notice (Change of Use) is corrected by:
the deletion of the word "facilities" and the substitution of the word "facilitate" in requirement 2.
4. Subject to the correction, the appeals are dismissed, and the Enforcement Notice (Change of Use) is upheld.

Preliminary Matters

5. I am also dealing with an appeal under section 78 of the Act which is against the Council's decision to refuse to grant planning permission for the retention and completion of building for use as one dwelling and one holiday let (Appeal Ref. APP/F3545/W/21/3282431). This is the subject of a separate decision.

The Notices

Enforcement Notice (Operational Development)

6. Following my site visit the Council submitted a revised plan for the Enforcement Notice. This plan shows a larger area than the plan attached to the notice when it was served. The revised site plan now includes the entirety of the building and the land surrounding it which is subject to the requirements of the notice.
7. The appellants have had the opportunity to comment on the revised plan, but I have not received a reply from them within the time period requested. The revised plan more accurately identifies all of the land to which the notice relates, and I shall accept it on the basis that doing so will not cause injustice to the parties or to any interested party.

Enforcement Notice (Change of Use)

8. There is a typographical error in requirement 2 of the notice which should read as follows:

2) Remove from site all items and articles including hardstanding brought onto site to facilitate the residential use.

I can correct this error without causing injustice to any party and shall do so.

Reasons

9. An appeal under ground (g) is on the basis that the period specified for compliance with the notice falls short of what should reasonably be allowed.
10. The appellants consider that the compliance periods of 12 months are too short because they would not provide sufficient time for the works to be carried out, they do not have alternative accommodation and want to remain on the site for security and practicality reasons. The appellants also consider that an extension is justified to allow for consideration of a planning application for retention and completion of the building works. The Council considers that the 12 month compliance period is reasonable and that a longer time period would undermine the enforcement process.
11. The planning application to which the appellants refer is the subject of the appeal under s78 which I have also dealt with. Consequently, an extension of the compliance periods, which would start on the date of my decision, is no longer necessary to allow that application/appeal to be dealt with.
12. The appellants say that due to their financial circumstances they will have to do the demolition works themselves and that they need to salvage as much material as possible for onward sale. However, there are no detailed proposals before me to demonstrate the likely duration of the demolition works.
13. There is a synergy between the presence of the mobile homes and ancillary outbuildings on the land and the works which the appellants have been carrying out on the building. The enforcement notices were served simultaneously, and the compliance periods are aligned. The appellants currently live in the building, and they say that they have no alternative accommodation to the mobile homes. It is reasonable to assume that when works to demolish the building are ongoing it will no longer provide a safe living environment.
14. Whilst there may be other alternatives to a presence on site to provide for security given that the appellants have to carry out the works themselves it is a pragmatic solution to allow the caravans to remain while the works are carried out. To that extent it is appropriate for the compliance periods to remain in alignment.
15. In the absence of any detailed information, there is no evidence to suggest that the appellants could not comply with the enforcement notice relating to the operational development within the 12 month compliance period or that the demolition works will take 18 months, which is the duration suggested by the appellants.
16. As the building is occupied as residential accommodation and the appellants say that the mobile homes are their only alternatives, upholding the notice would cause the loss of someone's home and there would be interference with the occupiers' rights. Therefore, the right set out under Article 8 of the European Convention on Human Rights, which is the right for respect for private and family life, is engaged.
17. However, Article 8 is a qualified right, and the rights of the individual are outweighed by the public interest which in this case arises from the breach of

planning control and the harm arising from development which is contrary to the Council's planning policies which seek to protect the countryside from unsustainable development and from the ongoing harmful impact which the development has on the character and appearance of the site and the surrounding area. It is necessary and proportionate to require the removal of the building and the mobile homes and there is no evidence before me to suggest that alternative accommodation could not be found within the compliance period.

18. An extension of the compliance period to 18 months as requested by the appellants would undermine the enforcement process and there is no supporting evidence to show that this length of time is necessary to achieve compliance with the notices.
19. For the reasons given above, I conclude that the periods for compliance with the notices do not falls short of what is reasonable, and the appeals fail on ground (g).

Conclusion

20. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notices with corrections to both notices in the terms set out in the Decision.

Sarah Dyer

Inspector

Annex 1



Plan

This is the plan referred to in my decision dated:

by Sarah Dyer BA BTP MRTPI MCMI

Appeal A Ref: APP/F3545/C/21/3280106

Appeal B Ref: APP/F3545/C/21/3280107

The Barn, Wickhambrook, Newmarket, Suffolk, CB8 8PY

Scale: NTC

