



Appeal Decisions

Site visit made on 17 March 2022

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 April 2022

Appeal A: APP/X1355/C/21/3286391

Appeal B: APP/X1355/C/21/3286392

**Land lying to the north east of St Aidans Terrace, Trimdon Station
TS29 6BT**

- 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 made by Miss Sacha Leigh Bambrough (Appeal A) and Mrs Karriann Bambrough (Appeal B) against an enforcement notice issued by Durham County Council.
 - The enforcement notice was issued on 7 October 2021.
 - The breach of planning control as alleged in the notice is Without planning permission, the unauthorised material change of use from agricultural land for the storing of 2 no. large static caravan(s) and attached timber extensions, excavation work(s), storage of mini digger and tyres.
 - The requirements of the notice are 1. Cease the use of the site for the storage of the caravans; 2. Permanently remove caravan A and attached wooden structure from the site; 3. Permanently remove caravan B and attached wooden structure from the site; 4. Permanently remove the mini-digger from the site; 5. Permanently remove all of the tyres stored along the southern boundary, from the site; 6. Dismantle the close-boarded wooden fence enclosure located next to caravan A and permanently remove all materials along with associated fixtures and fittings from the site; 7. Backfill all area(s) of the site that have been excavated, with suitable materials and replace topsoil to match adjacent land levels and re-seed and return all of these area(s) of land back to its previous grassed condition and appearance.
 - The period for compliance with the requirements is 3 months.
 - The appeals are made on the grounds set out in section 174(2)(a) (Appeal A only), (b) and (e) of the Town and Country Planning Act 1990 as amended.
-

Formal Decision

1. The enforcement notice is quashed.

Reasons

2. It is essential that an enforcement notice specifies the alleged breach of planning control accurately as this forms the basis of the deemed planning application, and therefore the relevant material planning considerations that need to be weighed in the balance.
3. The enforcement notice alleges a material change in the use of the land. However, the parties appear to agree that the description of the breach of planning control is not worded accurately in the notice, as it does not capture the use of the land that is taking place. The parties agree that there has been

a change of use to a mixed use of land, which includes an equestrian use. In such cases the notice should refer to all the components of the mixed use, to enable the planning merits to be judged accordingly. The Council takes the view that the mixed use includes an equestrian use and a storage use.

4. In excluding reference to the equestrian use in the allegation, and therefore each of the primary uses of the land in totality, the description of the breach of planning control is incorrect. Furthermore, the notice must specify accurately what use of land the caravans are sited for. The notice alleges that the two static caravans are simply being stored on the site. However the parties agreed that the structures are not just being stored there. It appears that one of the caravans (and attached shed) is being used for storage / welfare purposes in connection with the equestrian use of the land. It also appears that the second caravan is being used for the general storage of miscellaneous items.
5. This means that the parties on whom the notice was served have not been provided with an opportunity to address this materially different breach of planning control, whether by bringing a different ground of appeal or otherwise. Neither have interested parties had the opportunity to make representations on the same.
6. Accordingly, I am unable to correct the notice without causing injustice to the appellants and interested parties. This finding is without prejudice to the Council's ability to issue a fresh notice having regard to Section 171B(4)(b) of the Act.

Conclusion

7. For the reasons given above I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act as amended, since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
8. In these circumstances the appeals under grounds (a), (b) and (e) as set out in section 174(2) of the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not fall to be considered.

Roy Merrett

INSPECTOR