
Appeal Decisions

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Refs: APP/X4725/C/21/3282083 (Appeal A) & APP/X4725/C/21/3282084 (Appeal B)

Land to the north side of Blacker Lane, Wakefield, West Yorkshire

- 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 Mark Chapple (Appeal A) and Mrs Gaynor Godwin (Appeal B) against an enforcement notice issued by City of Wakefield Metropolitan District Council.
 - The enforcement notice is dated 23 August 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission: a material change of use of land from agriculture to storage of demolition waste, plant, machinery, vehicles, metal sheets and frames, timber, beer barrels, oil drums, mobile concrete barriers and siting of shipping containers, portable office and associated operational development involving the excavation of land, installation of concrete foundations, the installation of drainage and other pipes and erection of a shed on the land in the Green Belt (in the locations shown in the plan attached to the enforcement notice).
 - The requirements of the notice are: (i) Cease the use of the land for storage. (ii) Remove all demolition waste and other stored materials including but not limited to shipping containers, a portable office, vehicles, beer barrels, oil drums, plant and machinery, sheet metal and frames and mobile concrete barriers; (iii) Remove all drain and water pipes; (iv) Remove all concrete foundations and (v) Restore the land to its previous condition by reinstating the land profiles and covering with grass seeded topsoil.
 - The period for compliance with the requirements is 16 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. Appeals A and B are dismissed, and the enforcement notice is upheld.

Preliminary Matters

2. The determination of the appeals turns solely on consideration of ground (g), a ground of mitigation relating to the period of compliance. The written evidence alone was sufficient for the consideration of the appeals, and so it was not necessary for me to carry out a site inspection. The main parties were consulted and made no objection to this approach.

The appeals on ground (g)

3. Ground (g) is that the time given to comply with the notice is too short.

4. The appellants indicate that they are willing to comply with the requirements of the enforcement notice. However, they are concerned about the practical implications of carrying out the requirements during poor weather. In particular, they seek to avoid the use of heavy plant on the land on wet, muddy ground. I note also that work commitments will restrict the time the appellants can be present at the appeal site.
5. The enforcement notice was issued in August 2021 and was to take effect on 22 September 2021, with the appeals made on 1 September 2021. Had the notice taken effect at that time, the works would have needed to be done over the winter months.
6. In the facts set out on the appeal form, the appellants say that being able to carry out the work within summer months would make the time restraint of 16 weeks easier to comply with. However, they later estimate that they would need 10 to 12 months due to the inclement winter weather.
7. Due to the timescale of the appeal process, the winter months have now passed at the time of writing. That being the case, and in the absence of any other substantive objection to the 16 week period, I consider that there is no demonstrable requirement for 10 to 12 months for the work.
8. In any event, I am mindful that the Council have the power to extend the compliance period, if they see fit. Whilst this is entirely a matter for the Council's discretion, it would be open to the appellants to ask for an extension of time, should it prove necessary.
9. The appeals on ground (g) therefore fail.

Conclusion

10. For the reasons above, the appeals are dismissed, and the enforcement notice is upheld.

Elaine Gray

INSPECTOR