



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Levelling Up, Communities and Local Government

Decision date: 12 May 2022

**Appeal refs: APP/B1550/C/22/3293370, 3293371, 3293375 and 3293376
Land at Limehouse Nursery, The Drive, 401 Eastwood Road, Rayleigh, Essex,
SS6 7LJ**

- 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 brought by Mr David & Mrs Sandra Poole against enforcement notices issued by Rochford District Council.
- The notices were issued on 10 January 2022.
- The alleged of planning control alleged in Notice A are "1. The material change of use of land (shown edged red on the attached plan 2) in the Metropolitan Greenbelt from garden centre, to a mixed use of workshops, café, market stalls, stationing shipping containers (shown labelled S) used for various commercial uses and storage. 2. The erection of buildings shown labelled A and stippled (café) and labelled B and crosshatched (workshop and office) on the attached plan 2 used as café and workshop and an area of decking installed in the approximate position shown hatched and labelled D. 3. The material change of use of a marque structure shown labelled C and marked by XXXs on the attached plan 2 from garden centre use to a use for independent market stalls.
- The breach of planning control alleged in Notice B is "Without planning permission, the material change of use of land in the Metropolitan Greenbelt from garden centre, to a use for the stationing of shipping containers used for private rented self-storage. (the shipping containers are shown in the appropriate area marked 'B' and crosshatched on the attached plan 2)".
- The requirements of the notices are as described in the Annex to this decision.
- The time period for compliance with the notice A is: "Six (6) months from the date this notice takes effect" and the time period for compliance with notice B is: "Four (4) months from the date this notice takes effect.
- The appeals are proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeals are dismissed and the enforcement notices are upheld without variation.

Reasons for the decision

1. The main basis of the appellants case on appeal is that they need more time to comply with the notice as parts of the land are leased to occupiers and notice will have to be given to end the leases and then for the required works to be carried out. Accordingly, they request that the compliance period for both notices be extended to 9 months. However, while I note the appellants' reasons behind the request, I am mindful that some 3 months have elapsed since the appeals were submitted with enforcement action effectively suspended. Moreover, as the compliance period will begin again from the date of this decision, the appellants will effectively have had the 9 months they desire to issue the necessary notices to lessees and to ensure the required works are carried out. In these

circumstances, I see no good reason good reason to justify extending the compliance period further. The ground (g) appeals fail accordingly.

Formal decision

2. For the reasons given above, the appeals are dismissed and the enforcement notices are upheld without variation.

K McEntee

ANNEX TO DECISION

The requirements of Notice A

1. Cease the use of the land shown edged red on the attached plan 2 for the mixed use of workshops, café, market stalls, stationing shipping containers used for various commercial uses and storage.
2. Cease the use of building A and B for café and workshop and office facilities.
3. Permanently remove/demolish the buildings shown labelled A (café) and B (workshop and office) on the attached plan 2 used as café and workshop.
4. Remove the area of decking installed in the approximate position shown hatched and labelled D.
5. Cease the use of the marque structure shown labelled C on the attached plan 2 as independent market stalls and remove all fixtures installed to facilitate the use.
6. Permanently remove from the site **all** the shipping containers shown in the approximate positions cross hatched on the attached plan 2.

The requirements of Notice B

1. Cease the use of the land for the stationing of shipping containers used for private rented self-storage.
2. Permanently remove from the site **all** the shipping containers