



Appeal Decision

Site visit made on 25 April 2023

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2023

Appeal Ref: APP/P0240/C/22/3313001

Dovehouse Farm, Dovehouse Lane, Kensworth, Dunstable LU6 2PQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Anthony Sinfield-Green against an enforcement notice issued by Central Bedfordshire Council.
 - The notice was issued on 16 November 2022.
 - The breach of planning control as alleged in the notice is 1. Without planning permission, the material change of use of the land to a mixed use of agriculture with a retail shop, horticultural nursery, storage (limited to a specific barn only marked by the dark blue box on the plan attached to the notice) and open storage including the siting of storage containers in the area marked by the black box on the attached plan and the storage of motor vehicles in the area marked by the green box on the attached plan.
 - 2. Without planning permission, the erection of a covered scaffold structure (in the approximate position outlined in black on the attached plan).
 - 3. Without planning permission, the formation of a hardstanding (in the approximate position outlined in light blue on the attached plan).
 - The requirements of the notice are: 1. Cease use the use of the land for open storage purposes and remove from the land all storage containers and any motor vehicle not associated with the authorised use of the land. 2. Remove the hardstanding shown outlined in light blue on the attached plan and all materials arising from the operation. 3. Restore the area of land where the hardstanding has been laid to its condition before the breach took place. 4. Remove from the land the scaffold structure and all materials used in its erection and stored within the structure outlined in black and to restore the area of land relating to the scaffold structure to its condition before the breach took place.
 - The periods for compliance with the requirements are: 1 & 2: Three months. 3: Six months. 4: One month.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. Planning merits considerations are not before me in this appeal, as there is no deemed planning application arising from an appeal on ground (a) and the relevant fee has not been paid.
3. The appeal on ground (f) is limited to the hardstanding forming one part of the breach of planning control alleged by the enforcement notice. The notice will therefore take effect in respect of the other matters referred to in the allegation, irrespective of the outcome in this appeal.

Ground (f) appeal

4. The ground of appeal is that the requirements of the notice are excessive.
5. The appeal site contains a complex of rural buildings, used for farming as well as for other purposes including business, retail and residential use, together with associated land. The notice attacks a substantial area of hardstanding surfaced with compacted scalpings and rubble, situated towards the north-west edge of the complex adjacent to housing and open farmland.
6. An enforcement notice can have the purpose of remedying the breach of planning control, including by restoring the land to its condition before the breach took place as provided by s173(4)(a) of the Act, or it can remedy any injury to amenity which has been caused by the breach as provided by s173(4)(b).
7. The notice requires the complete removal of the hardstanding as well as the constituent materials. The notice does not seek the modification or alteration of the hardstanding in some way, for example by reducing the size or by changing the surface treatment. Therefore, although the notice does not state as such, its purpose in respect of the hardstanding must be to remedy the breach of planning control by restoring the site to its condition prior to the breach taking place. Set in that context, any step which stopped short of requiring complete removal of the hardstanding would sustain part of the breach and so would not achieve the purpose of the notice.
8. Farming equipment and farm vehicles were occupying substantial parts of the hardstanding when I visited. The appellant argued that the hardstanding is required for the purposes of agriculture associated with the farm. However, that is a matter relevant to the planning merits of the hardstanding and is therefore outside the scope of this appeal. General planning considerations cannot be entertained when determining an appeal made solely on ground (f) and the powers in s176(1) of the Act cannot be used to vary the notice to attack its substance. The appellant did not advance any alternative to the complete removal of the hardstanding that would also remedy the breach and to my mind, there is none.
9. Accordingly, the requirement to remove the hardstanding is not excessive, it is a proportionate remedy involving the minimum works necessary to restore the site to its condition before the breach took place.
10. The ground (f) appeal fails.

Conclusion

11. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Stephen Hawkins

INSPECTOR