



Appeal Decisions

Site visit made on 23 August 2023

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2023

Appeal A - Ref: APP/Q3115/C/22/3312174

Land to the North East of Brookside Court, Cuddesdon Road, Horspath, Oxford, OX33 1JB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr S Dunne against an enforcement notice issued by South Oxfordshire District Council.
 - The notice was issued on 17 October 2022.
 - The breach of planning control as alleged in the notice is Without planning permission the material change of use of land shown outlined red on the Plan from agricultural to a mixed use comprising agriculture and non-agricultural storage, parking and outdoor amenity uses including outdoor seating.
 - The requirements of the notice are to:
 - (i) Stop using the land for all non-agricultural uses.
 - (ii) Remove all items, including but not limited to, building materials and stockpiles, waste, building equipment, vehicles, machinery, containers, skips, fencing, barriers, traffic cones, wheelbarrows, portable toilets, pallets, seating, plastic pipes, white goods, ornamental features and gas cylinders which are unrelated to the lawful agricultural use of the Land.
 - The period for compliance with the requirements is: 6 months after the notice takes effect.
 - The appeal is 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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Appeal B - Ref: APP/Q3115/C/22/3312175

Land to the North East of Brookside Court, Cuddesdon Road, Horspath, Oxford, OX33 1JB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr S Dunne against an enforcement notice issued by South Oxfordshire District Council.
- The notice was issued on 17 October 2022.
- The breach of planning control as alleged in the notice is Without planning permission the undertaking of building, engineering and other operations comprising: 1) the erection of a non-agricultural building and surrounding paving in the approximate location shaded blue on the Plan and identified as "Building and adjacent paving" in the Plan key; 2) the laying of a tarmacked track and parking areas in the approximate location shaded purple on the Plan and identified as "Tarmacked Track and Parking Areas" in the Plan key; 3) hard landscaping works in the approximate locations shaded orange on the Plan and identified as "Hard Landscaped Areas" in the Plan key including paving, walls and ornamental features; 4) the laying of hardstanding within the area shaded green on the Plan and identified as "Areas for Storage of Building equipment and Materials" in the Plan key and 5) Installation of security lighting and camera columns in the approximate location indicated on the Plan and identified as "X1 & X2 Security Lighting and Cameras Columns" in the Plan key.
- The requirements of the notice are to:
 - i) Demolish the building and adjacent paving, shown in blue on the Plan, including the foundations.

- (ii) Dig up the tarmacked track and parking areas, shown in purple on the Plan, and all associated infrastructure including but not limited to any utilities, services, cables, pipes, drains, kerbs and sewers.
 - (iii) Demolish and dig up the hard landscaped areas including all paving, walls and ornamental features, within the area shown in orange on the Plan, and all associated infrastructure including but not limited to any utilities, services, cables, pipes, drains, kerbs and sewers.
 - (iv) Dig up all the areas of hardsurfacing within the Areas for Storage of Building Equipment and Materials, shown in green on the Plan, and all associated infrastructure including but not limited to any utilities, services, cables, pipes, drains, kerbs and sewers.
 - (v) Pull down, dismantle or otherwise remove the lighting and security camera columns, shown as X1 and X2 on the Plan, and all associated infrastructure including but not limited to posts, utilities, cables, hardcore and footings.
 - (vi) Remove from the Land all waste materials including but not limited to metal, wood, glass, debris, rubble and broken up concrete and hardstanding or detritus resulting from steps (i), (ii), (iii), (iv) and (v) above.
 - (ii) Reinstate areas of the Land disturbed by steps (i), (ii), (iii), (iv) (v) and (vi) above by the backfilling of any excavations using clean fill, the spreading of topsoil to levels commensurate with the natural levels and fall of immediately adjoining lands and the sowing of grass seed.
- The period for compliance with the requirements is: 9 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decisions

APPEAL A

1. It is directed that the enforcement notice is varied by:
 - the deletion of 6 months and the substitution of 10 months as the time for compliance
2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

APPEAL B

3. It is directed that the enforcement notice is varied by:
 - the deletion of 9 months and the substitution of 12 months as the time for compliance
4. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

Appeal B - Ground (f)

5. This ground of appeal is that the requirements of the notice are excessive and that lesser steps would overcome the objections. The Council confirm in its statement of case that it considers the steps as set out to be the minimum necessary to remedy the breach of planning control. Clearly this is therefore the purpose of the notice.
6. The appellant states that their appeal under this ground relates only to requirement (ii) of the notice:

"Dig up the tarmacked track and parking areas, shown in purple on the Plan, and all associated infrastructure including but not limited to any utilities, services, cables, pipes, drains, kerbs and sewers."

7. It is requested that an area of hardstanding located to the western extremity of the appeal site be retained in association with the agricultural use of the adjacent land. In addition, the appellant considers that the requirement to remove any below ground services to be excessive and unnecessary. In regard to both of these matters, it is contended that the removal of these elements is not necessary to resolve the harm, or injury to amenity, which the notice seeks to address.
8. Nonetheless, I am conscious of the purpose of the notice as stated by the Council; to remedy the breach of planning control by restoring the land to its condition before the breach of planning control took place. Moreover, it is clear from the requirements of the notice that this was the intended purpose.
9. In respect of the area of hardstanding, to allow its retention would not resolve the entire breach as set out in the notice and thus to require its removal is not excessive. The underground elements are part of the development that has been carried out. The appellant sets out that the removal of these elements would involve a cost and noise. There would also be alleged disruption to drainage. However, there would have been cost and noise, as well as interference with drainage involved with the installation of these features and therefore, I am not persuaded that requiring their removal would be in any way excessive. While I accept the underground features would not be seen, there is, in my view, no justification for retaining such elements and to do so would not remedy, in full, the breach of planning control.
10. The appellant has addressed the reasons for issuing the notice, however while this is noted, this does not address the purpose of the notice as set out above and does not persuade me that parts of the unauthorised development should be retained. I am conscious that it has been contended that to create a new area of hardstanding following removal of the existing would be permitted development. However, this is not a matter that influences my consideration of this issue.

11. For these reasons, the appeal on ground (f) fails.

Appeals A and B - Ground (g)

12. Ground (g) is that the period for compliance with the requirements of the notice falls short of what is reasonable. The Notice in Appeal A provides a period of 6 months for compliance, while the Notice in Appeal B provides a period of 9 months. The appellant sets out that the development currently serves an existing business, and that time will be needed to find and secure alternative provision. There is also a need to relocate heat exchangers and solar panels that serve the offices at the site, which will involve obtaining planning permission for any new structure. The appellant therefore seeks an extension of 4 months in respect of Appeal A and an extension of 3 months in respect of Appeal B.
13. Given the circumstances outlined by the appellant, I am satisfied that to allow additional periods for compliance would be reasonable and proportionate in this

case. I am also conscious that the Council have no objection to the requested extensions of the periods for compliance.

14. Therefore, the appeals on ground (g) succeed.

Conclusion

15. For the reasons given above, I conclude that the periods for compliance with the notices fall short of what is reasonable. I shall vary the enforcement notices prior to upholding them. The appeals on ground (g) succeed to that extent. The appeal on ground (f) however fails.

Martin Allen

INSPECTOR