



Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 15 January 2025

Appeal Ref: APP/M1595/C/24/3343774

Land at Supply 2 Location, Southend Road, Fobbing, Stanford Le Hope, Essex, SS17 9EY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Supply 2 Location against an enforcement notice issued by Thurrock Borough Council.
 - The notice was issued on 9 April 2024.
 - The breach of planning control as alleged in the notice is: The marquee in the location shown with an 'x' on the attached plan was erected on the Land. A planning application to retain this development was submitted under reference 21/01761/FUL and refused. Appeal number APP/M1595/W/22/3307471 was lodged and dismissed. The breach remains.
 - The requirements of the notice are: 5. Within one month of the date of this Notice take effect to (a) Cease the use of the marquee and, (b) Remove all equipment and materials from the marquee. 5. Within two months of the date this Notice takes effect to (a) Completely dismantle and remove all components of the marquee from the Land.
 - 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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Decision

1. It is directed that the enforcement notice is varied by:
 - Deleting the words at section 5 (as set out in the banner heading above) and replacing them with "Within three months of the date this Notice takes effect (a) Cease the use of the marquee; (b) Remove all equipment and materials from the marquee; (c) Completely take down and dismantle the marquee".
2. Subject to this variation, the enforcement notice is upheld.

Preliminary Matters

3. The grounds of appeal do not require any assessment of matters of planning merit. The outcome of the appeal is set by the parameters of s174(2)(f) and (g) of the 1990 Act only. Consequently, seeing the site to make a visual assessment was not necessary to determine the appeal. No party has been prejudiced by this course of action.
4. The plan attached to the enforcement notice includes the car wash on the site frontage which the appellant says is a separate planning unit and not in breach of planning control. That may be the case, but the notice is only directed at the marquee which is identified clearly by an 'X' on the plan. There is nothing irregular about the enforcement notice plan.

Ground (f)

5. The enforcement notice attacks the erection of the marquee, and it requires, in short, for it to be taken down and for the resulting components of the structure to be removed from the land. The purpose of the notice therefore falls under s173(4)(a) of the 1990 Act which is to remedy the breach of planning control by restoring the land back to its condition before the breach took place.
6. On its face, therefore, the requirement to be undertaken in two months is not excessive. However, the site has planning permission for B8 open air storage. In this context, there is no justifiable reason why the taken down and dismantled marquee could not be lawfully stored in the open air on the appeal site. Requiring the dismantled components to be removed from the land with the lawful fallback on-site storage solution in mind is therefore excessive. To this extent the ground (f) appeal succeeds. I shall vary the notice accordingly without affecting the purpose of the notice.

Ground (g)

7. In total, the appellant would have two months to carry out the requirements of the notice. The appellant has set out a business case for a longer time, although what would be considered appropriate has not been specified. Balanced against that business case, however, is the continued harm to the Green Belt and the character and appearance of the area. In my view, extending the compliance period to one overall timescale for all steps to three months would strike the right balance. Thus, the ground (g) appeal also succeeds.

Conclusion

8. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

Gareth Symons

INSPECTOR