



Appeal Decisions

Site visit made on 13 November 2023

by Mr James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2024

Appeal A Ref: APP/R3325/C/23/3315003

Appeal B Ref: APP/R3325/C/23/3315004

Land at Stable Cottage, Coker Court, East Coker BA22 9JW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeals are made by Mr Jeremy Purkiss (Appeal A) and Mrs Louise Purkiss (Appeal B) against an enforcement notice issued by South Somerset District Council.
- The notice was issued on 8 December 2022.
- The breach of planning control as alleged in the notice is "Without planning permission: (a) the unauthorised erection of a timber stable building consisting of 3 stables and a tack room, 2 timber shed buildings and a further large timber building; and (b) the unauthorised change of use of the land from agriculture to a mixed use of agriculture, storage or domestic items and equestrian use.
- The requirements of the notice are to: (i) Remove the unauthorised timber stable building, the 2 sheds and the other large timber building from the land; (ii) Remove all materials associated with the removal at 1) above including all domestic items that had been stored in the unauthorised buildings; (iii) Return the use of the land to agriculture; and (iv) Cease all use of the land for equestrian use and domestic storage.
- The period for compliance with the requirements within 3 months from the date the notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 as amended (1990 Act).

Summary decisions: The enforcement notice is quashed.

Validity of Notice

1. The matters alleged in the enforcement notice (EN) comprise the erection of four separate "buildings", being a timber stable building, two timber shed buildings and a further large timber building. The plan attached to the EN did not identify the relevant structures.
2. During my site visit, there were more structures present within the appeal site than specified in the EN. Nonetheless, the "timber stable building" consisting of three stables and a tack room could be identified. It also seemed reasonably clear that the reference to "2 timber shed buildings" related to two adjacent sheds towards the north-west of the appeal site.
3. However, in addition to these structures, there was a poultry shed along the south-western boundary of the site. There was also a timber wood store along the south-eastern boundary. Both of these are constructed from timber. Given these structures are not shown on the plan attached to the EN, it is unclear which of these structures the reference to "a further large timber building" in the EN was intended to relate to. The reasoning for issuing the notice offers no help or clarity in this regard.

4. The Council's appeal statement is also unhelpful on this point. Within the site description of the statement, reference is made to a "timber building for chicken/geese". Later in the statement, it says "one of the structures was described as a log store/wood shed". Even when read alongside the Council's evidence, it is therefore unclear whether the EN is seeking to enforce against the poultry shed or the wood store.
5. The requirements of the EN require the removal of the "unauthorised timber stable building, the 2 sheds and the other large timber building from the land". Given the ambiguity in respect of the "large timber building", it follows that the appellants cannot be certain whether they are required to remove the poultry shed or the timber store.
6. I wrote to the parties to seek clarity on this issue, and the Council responded to say that the EN should have captured all of the structures mentioned above. Given this response, it remains unclear which of the structures within the appeal site the "further large timber building" was intended to relate to. I am therefore unable to modify the allegation or the associated requirements to ensure the correct structure is identified.
7. Moreover, if I were to modify the allegation and the requirements of the notice to include all of the aforementioned structures, the appellants would be required to remove more structures from the appeal site than originally required by the notice. This would clearly cause prejudice. I am therefore unable to correct the allegation in this way, or modify the associated requirements, without causing injustice to the appellants.
8. From the Council's response to my questions, it also appears that they intended to take a comprehensive approach to enforcement across the whole of the appeal site. In turn, if I were to remove reference to the uncertain buildings from the allegation and the requirements completely, and only consider the EN insofar as it relates to the stable building and the two timber sheds, then this would be inconsistent with the Council's approach. I have therefore not pursued this option further, noting that my findings do not affect the Council's rights under section 171B(4) of the 1990 Act.

Conclusion

9. For the reasons given, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breaches of planning control, nor the steps required for compliance. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act, since injustice would be caused were I to do so. The enforcement notice is therefore invalid and will be quashed. In these circumstances, the appeals on the grounds set out in section 174(2)(b), (c) and (f) of the 1990 Act do not fall to be considered.

Formal Decision

10. The enforcement notice is quashed.

James Blackwell

INSPECTOR