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# Appeal Decisions

Site visit made on 16 April 2012

**by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 3 May 2012**

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**Appeal Ref: APP/B3410/C/11/2167135 & 6**

**Land at Meadow Lane, Bond End, Yoxall, Burton-upon-Trent, DE13 8NJ**

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the 1990 Act).
  - The appeal is made by Mrs Tina Maria Mattock (2167135) & Mr David John Mattock (2167136) against an Enforcement Notice issued by East Staffordshire Borough Council on 18 November 2011.
  - The Council's reference is ENF/2011/00249.
  - The breach of planning control as alleged in the Enforcement Notice is the siting of a storage container, static caravan and log cabin without planning permission.
  - The requirements of the Enforcement Notice are to permanently remove the storage container, static caravan, log cabin and all resultant material from the site.
  - The period for compliance with the requirements is thirty days.
  - The appeals are proceeding on the grounds set out in Section 174(2)(f) & (g) of the 1990 Act.
  - Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under Section 177(5) of the 1990 Act does not fall to be considered.
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## Procedural Matters

1. The fourth line of the Enforcement Notice refers to "Operational Development" whereas the breach of planning control relates to a change of use of the land. There is no need to draw a distinction between such breaches of planning control in the heading of the Enforcement Notice. I therefore intend to delete reference to "Operational Development".
2. The correct address for the property is specified in the heading above. I am of the view that part 2 of the Enforcement Notice should be amended to reflect this.
3. Paragraph (1) of Part 4 of the Enforcement Notice refers to a period of four years. The correct period should be ten years.
4. From my reading of the appeal papers and unaccompanied inspection of the site I am of the view that the correct description of the breach of planning control in Part 3 of the notice is, "Without planning permission the use of the land for the storage of:
  - i) a static caravan,
  - ii) a shipping container, and
  - iii) parts of a building mainly made of timber (the timber building)".

5. The Planning Inspectorate wrote to the parties on 19 April 2012 regarding these matters and asked for their views as to whether any injustice would be caused by correcting the Enforcement Notice. Neither party raised any objections to the amendments to the Enforcement Notice or suggested that those amendments would cause any injustice. I do not consider that any injustice is caused by correcting the Enforcement Notice in the manner outlined above.

### **Decision**

6. The Enforcement Notice is corrected and varied:
  - a) by the deletion of the words "OPERATIONAL DEVELOPMENT" in line 4,
  - b) by the deletion of part 2 and the substitution of the words "The land at Meadow Lane, Bond End, Yoxall, Burton-upon-Trent, DE13 8NJ shown edged red on the attached plan ("the Land").",
  - c) by the deletion of part 3 and the substitution of the words "Without planning permission the use of the Land for the storage of a static caravan, a shipping container and parts of a building mainly made of timber (the timber building).",
  - d) by the deletion of the word "four" in paragraph (1) of part 4 and the substitution of the word "ten", and
  - e) by the deletion of paragraph (1) in part 5 and the substitution of the words "Remove the static caravan, the shipping container and the timber building and all resultant material from the Land."

Subject to these corrections and variations the appeal is dismissed and the Enforcement Notice is upheld.

### **Background Information**

7. Outline conditional planning permission was granted by the Council in April 2010 for the erection of a detached stable block on the appeal site. As far as I am aware some of the reserved matters have still not been approved by the Council.
8. In October 2010 the Council granted conditional planning permission to use the land for the keeping and riding of horses and also for the formation of an access to the site.

### **Ground (f) that the steps required to comply with the requirements of the Enforcement Notice are excessive and lesser steps would overcome the objections**

9. Section 173 of the 1990 Act sets out what the contents and effect of an Enforcement Notice should be. Sub-section 4(a) explains what purposes the steps specified in an Enforcement Notice should achieve. In this case the steps specified seek to achieve the restoration of the land to its condition before the breach took place.
10. Section 174 of the 1990 Act sets out the statutory code for appeals against Enforcement Notices. An appeal on Ground (f), in a case such as this, is limited to an argument that the steps specified in the Notices exceed, as a

matter of fact, what is necessary to restore the land to its condition before the breach took place.

11. In my view the requirements are entirely appropriate to achieve the objective of restoring the land to its condition before the breach took place and there are, in my assessment, no lesser steps that could be taken to achieve that objective.
12. I conclude that no good reason is advanced by the appellants as to why the requirements of the Notice exceed what is necessary to restore the land to its condition before the breach took place and, for the reasons explained above, this is the limited scope of a Ground (f) appeal in a case such as this. Further, no alternative lesser steps have been suggested by the appellants. This ground of appeal must therefore fail.
13. I am aware that:
  - the timber building was initially brought on to the land so that the materials could be used in the construction of the stables,
  - the appellants have now sold the timber building and it should be removed from the site in early May 2012,
  - the shipping container is on the land so as to provide secure storage for equipment and materials to be used in carrying out maintenance to the land including drainage works, and
  - the static home would be used when the building works for the stables are being carried out.

The appellants have indicated that the shipping container and the static caravan would be removed after the maintenance and building works have been completed.

14. However, there is no full planning permission for the erection of the stables as the reserved matters have not been discharged. Further, the arguments advanced are ones which can only be properly dealt with had a Ground (a) appeal been made.

**Ground (g) that the time given to comply with the Enforcement Notice is too short**

15. The appellants have indicated that the works referred to above would be completed by February 2013 and therefore requested that the period of compliance be extended to that point in time. However, that is akin to asking for a temporary grant of planning permission which, as I have explained above, is a matter that could only be properly addressed under Ground (a).
16. In my assessment there is no reason why the period specified by the Council is too short to carry out the steps. It is simply a matter of arranging for suitable contractors to remove the structures referred to in the Enforcement Notice. The appeal on Ground (g) therefore fails.

*Tim Belcher*

**Inspector**