
Appeal Decision

Site visit made on 15 September 2016

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 20 September 2016

Appeal Ref: APP/D0121/C/16/3149429

Alveare, Bridgewater Road, Dundry, Bristol BS41 8JP

- 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 appeal is made by Mr John Fry against an enforcement notice issued by North Somerset Council.
 - The enforcement notice, numbered 2015/0542 was issued on 6 April 2016.
 - The breach of planning control as alleged in the notice is as follows: the change of use of the land from residential use to a mixed use for residential use and the siting of an independent residential static caravan (approximate position shown marked in blue on the attached plan).
 - The requirements of the notice are to cease the use of the caravan as independent residential accommodation and remove the caravan from the land.
 - The period for compliance with the requirements is 6 weeks.
 - The appeal was initially made on ground (b) only as set out in section 174(2) of the Town and Country Planning Act 1990 as amended. However, by e-mail of 27 June 2016 ground (g) was added. 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 Act as amended does not fall to be considered.
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Decision

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

Background information and matters of clarification

2. The site/property known as Alveare contains a large bungalow and three other buildings which are authorised as ancillary accommodation for the residential use of the land. This section of Bridgewater Road forms part of A38 which links Bristol Airport to the City centre. The site lies within the Bristol and Bath Green Belt and outside of any recognised settlement.
3. There is a detailed planning history relating to the site and this is set out in the Council's appeal statement. There is no need to repeat the planning history in relation to this appeal. It would appear that the static caravan was placed on the land sometime before 23rd November 2015 when it was brought to the Council's notice. An officer was able to view the interior through the windows and the evidence indicates that the unit was fully furnished and capable of functioning independently.
4. A Planning Contravention Notice (PCN) was issued on 20 January 2016. In response to the questions it was accepted that someone other than the appellant was 'living in caravan and that the use of this part of the land (a hardstanding to front garden) had commenced prior to '2014 November'. This may be typographical error since the static caravan was only brought to the notice of the Council a year later in November 2015.

5. Other PCN answers indicated that the accommodation was being used as a bedroom by a friend of the appellant and that 'eating and using toilet/bathroom facilities' were within Alveare. It was also confirmed that there had been a smaller caravan (touring type) on the land prior to the siting of the static caravan.

Reasons

The appeal on ground (b)

6. To be successful on an appeal under ground (b) it must be conclusively shown that what is alleged in the notice has not occurred as a matter of fact. The onus is on the appellant to show that the alleged change of use of the land (the whole of the site known as Alveare), from a single residential use to the same residential use plus a separate residential use of the static caravan, has not occurred.

7. The planning merits of the case do not fall to be considered and thus the development plan and other policies referred to by the Council are not relevant in relation to a ground (b) only appeal. With regard to the National Planning Policy Framework (NPPF), paragraph 207 is relevant and indicates, amongst other things, that effective enforcement is important as a means of maintaining public confidence in the planning system.

8. In support of the ground (b) appeal it is stated (on the appeal form) that the static caravan was brought on to the site to be stored there until a suitable caravan park could be found. It is accepted by the appellant that a friend had used the caravan as accommodation for a two month period and had 'vacated it on 03.03.2014'. However, again this must have been a typographical error. In addition it was confirmed that the appellant had disconnected the services to the caravan and that it was no longer the intention to use it as accommodation.

9. The Council, in support of its case, refers to the site inspection of 14 January 2016 which showed evidence that the bathroom within the static caravan was being used and that the plumbing appeared to be in working order. The static caravan also had a calor gas supply. The Council also refers to the fact that a separate Council Tax account for 'The Caravan, Alveare' was set up on 5th November 2015. This had followed a claim for housing benefit and Council Tax support being claimed by a person who had confirmed that he/she was living in the static caravan.

10. From all of the evidence and what I saw during my site visit, I can only conclude that the static caravan was being used as a separate residential unit to that of the bungalow and the three authorised ancillary buildings. I find it inconceivable that the Council Tax situation would have been set up, and agreed to, simply on the basis of a 'friend' staying for a short period. The occupant of the static caravan may well have also used the facilities within Alveare. However, I consider that, as a matter of fact and degree, the static caravan was capable of, and was used as a separate residential unit on the Alveare site.

11. None of the submissions made by or on behalf of the appellant convince me otherwise. I do not consider that the appellant has shown conclusively that what is alleged in the notice has 'not occurred as a matter of fact'. The appeal must fail, therefore, on ground (b).

The appeal on ground (g)

12. It is stated that the static caravan had been brought on to the site merely to store it until a suitable holiday site could be found. However, the separate residential use then took place. It is stated that the person living there has moved

out and that the appellant now requires a further period of 9-12 months in order to find a suitable site.

13. However, the unauthorised siting of the static caravan (and its occupation) commenced almost 12 months ago and that should have been more than adequate a period to search for an appropriate site. In the overall circumstances of this case I do not consider that there can be any justification to allow any period more than the required 6 weeks for compliance. The appeal under ground (g) also fails.

Other Matters

14. In reaching my conclusions in this case I have taken into account all other matters raised by the Council and the appellant. However none of these carries sufficient weight to alter my conclusions on the two grounds of appeal and nor is any other matter of such significance so as to change my decision that the appeal should fail and the notice be upheld.

Anthony J Wharton

Inspector