
Appeal Decision

Site visit made on 11 October 2016

by Clive Nield BSc(Hon), CEng, MICE, MCIWEM, C.WEM

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

Decision date: 21 October 2016

Appeal Ref: APP/Y1138/C/16/3150888

Land at Green Acres, Coldridge, Crediton, Devon, EX17 6BW

- 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 Edward Claye against an enforcement notice issued by Mid Devon District Council.
 - The enforcement notice, reference ENF/16/00064/NUCU, was issued on 21 April 2016.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the land from use for agriculture to a mixed use for agriculture and use for the siting of a caravan for human habitation.
 - The requirements of the notice are to: cease the use of the land for human habitation; remove any caravans from the land; and remove the lorry container, used in connection with the caravan, from the land.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

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

Procedural and Background Matters

2. The part of the appeal site in question contains: the residential caravan, in which Mr Claye lives; the storage container, which is used for the storage of domestic paraphernalia, as a workshop (as evidenced by a set of hand tools), and as an office with a small desk and filing facilities; and a partially constructed agricultural barn.

Ground (c)

3. This ground of appeal is that there has not been a breach of planning control, and Mr Claye argues that use of the caravan on the site falls within the scope of permitted development rights in connection with his construction of the barn, which benefits from planning permission.
4. He refers to rights under Part 5 Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. That defines permitted development rights for the use of land as a caravan site under the circumstances defined in paragraphs 2 to 10 of Schedule 1 of the Caravan Sites Control of Development Act 1960. Paragraph 9, Building and engineering sites, describes "the use as a caravan site of land which forms part of, or adjoins, land on which building or engineering operations are being carried out (being

operations for the carrying out of which permission under Part III of the Act of 1947 has, if required, been granted) if that use is for the accommodation of a person or persons employed in connection with the said operations”.

5. This permitted development right is primarily intended to allow construction workers to stay near their temporary place of work and, in this case, Mr Claye says he is erecting the barn himself and is living on the site to facilitate this. However, it is almost 2½ years since the prior approval procedures for the barn were completed, and progress with the barn has been extremely slow. Only 10 small concrete foundation pads were constructed in the first year, and since then only 5 steel frames and connecting roof timbers have been erected. Whilst further materials are on the site, and Mr Claye clearly intends to continue the work needed to complete the barn, this rate of progress is far too slow to justify the use of a caravan for residential purposes on the site.
6. It is clear that Mr Claye has only spent a small proportion of his time over the past 2½ years erecting the barn structure and that the primary reason for stationing the caravan on the site has been to provide Mr Claye’s main residential accommodation. He acknowledges this, and says that on occasions his daughter also stays there, as evidenced by the presence of children’s play equipment. He also explains that he needs to earn a living and so has limited time available to work on the barn.
7. That may be so but I have no doubt that the primary reason for the caravan is to provide residential accommodation for Mr Claye rather than to facilitate the construction of the barn. This primary use does not fall within the scope of the permitted development rights claimed by Mr Claye. It requires a separate planning permission and no such permission exists. I conclude that, on the balance of probabilities, the development is a breach of planning control. Thus the appeal on ground (c) is unsuccessful.

Ground (g)

8. Although not ticked on the appeal form, the Appellant’s statement refers to the time allowed for compliance with the notice, and I have considered that under ground (g). He says the caravan is his sole place of residence and that he cannot acquire alternative accommodation. I do not find that plausible, particularly as he also says he has unsuccessfully applied for planning permission to build a dwelling on the site. Thus it appears he has a preference to live on the site rather than an inability to live elsewhere. Under the circumstances, I consider the 6 months period allowed entirely reasonable for a single person to find and move into alternative accommodation and to remove the offending items from the appeal site. The appeal on ground (g) also fails.

Overall Conclusion

9. For the reasons given above I consider that the appeal should not succeed.
10. In reaching this conclusion I recognise that dismissal of the appeal would result in an interference with Mr Claye’s home and private and family life and that Article 8 of the European Convention on Human Rights provides protection for the right for these to be respected. However, that interference must be balanced against the public interest in pursuing the legitimate aims stated in Article 8, particularly the economic well-being of the country which includes the preservation of the environment.

11. The objections to the development that has taken place on this site, as referred to in the enforcement notice, are serious ones, and the public interest can only be safeguarded by the cessation of the use and the removal of the development. The enforcement notice allows 6 months for compliance with its requirements which gives an adequate period for re-housing and compliance.
12. In all the circumstances, I consider that the enforcement action taken is necessary in a democratic society in furtherance of the legitimate aims stated. They do not place a disproportionate burden on Mr Claye. I therefore consider that dismissal of the appeal would not result in a violation of his rights under Article 8 of the Convention.

Clive Nield

Inspector