The Planning Inspectorate

Appeal Decision

Site visit made on 24 January 2017

by John Whalley

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

Decision date: 31 January 2017

Appeal ref: APP/J2373/C/16/3157760
Carandaw Farm, School Road, Blackpool FY4 5EJ

- The appeal was made by Mrs Julie Lawn under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Blackpool Borough Council.
- The notice was issued on 20 July 2016.
- The breach of planning control alleged in the notice was: Without planning permission, the use of the land for the siting of a mobile home/static caravan for residential purposes.
- The requirement of the notice is to: Cease using the land for the siting of a mobile home/static caravan for residential purposes and remove the mobile home/static caravan from the land in its entirety.
- The period for compliance with the requirement is one month.
- The appeal was made on grounds (b) and (c).

Summary of Decision: The enforcement notice is upheld.

Appeal site

1. The enforcement notice was issued in respect of the siting and alleged residential use of a mobile home/caravan on the site known as Carandaw Farm, School Road, Blackpool. The mobile home was sited forward to the fronting School Road of a group of buildings used to stable horses and to keep dogs. The mobile home was connected to a septic tank and to mains water and electricity supplies. A pair of gas bottles to provide for heating and cooking facilities were connected outside. Inside, there was a lounge, a kitchen, a bedroom, a bathroom and a room used to house dogs.

The appeal on ground (b)

2. The appeal on ground (b) says the breach of planning control set out in the enforcement notice did not occur. The burden of proof in a legal ground of appeal such as this lies with the appellant. The case of *Nelsovil v MHLG [1962] 1 WLR 404* is authority for that position. It is for an appellant to show, for a ground (b) appeal, that the matters alleged in the notice did not, as a matter of fact, occur. For a ground (c) appeal, the onus is on an appellant to show why planning permission is not required for the alleged breach of planning control.

3. It was not contested that there was a mobile home on the appeal land. Mrs Lawn, the Appellant, said it was not for residential purposes, but was used for changing and as a shelter in association with caring for horses and dogs that live

on the land. It was effectively, a mess facility, (mess room - a room or building providing meals and recreational facilities for workers). That is more a matter for the ground (c) appeal; that the stationing and use of the mobile home is lawful. It does not amount to a breach of planning control. As the mobile home was sited on the land, the appeal on ground (b) fails.

The appeal on ground (c)

4. I first determine the lawful use of the appeal land. I then have to come to a view on the use of the mobile home to decide if its use amounted to a material change of use of the land from its lawful use. The case of *Deakin v FSS [2006] EWHC 3402 (Admin) and [2007] JPL 1073* is authority for that approach. The Council said the lawful use of the appeal land was as a private livery. That was derived from the implementation of planning permission 08/0705 for works that included: *"…. installation of a septic tank and siting of a caravan for storage and use of part of old stables as a livery.".*

5. The Council said the appeal mobile home was being used as a residence, not as a facility ancillary to the livery use of the land. They said they had, on a number of occasions, noted that the mobile home appeared to be occupied at different times of the day and night. Two cars, those owned by the Appellant Mrs Lawn and her partner, were seen parked close to the mobile home at the time checks were made. Mrs Lawn said the mobile home was merely used as a shelter and for changing associated with the equine and kennel use of the land.

6. The mobile home has mains water and electricity supplies. It is connected to a septic tank. The internal layout, in what is a large mobile home, had a living area, a kitchen area, 2 bedrooms and a bathroom. It was modestly furnished. But with the exception of one bedroom used to accommodate dogs, the mobile home appeared to be set up throughout in a manner more appropriate to domestic occupation than just as a mess facility. It did not look as if only used as an occasional shelter and rest resource for those caring for the animals on the appeal site, although such use is also made of the mobile home. There will be the occasions when the care of animals is necessarily not limited to normal working hours. But the Council's evidence appeared to show a residential use well in excess of such needs. The test to be applied where evidence on the facts is contradictory is the balance of probabilities, (*Thrassyvoulou v SSE No 1 [1984] JPL a732*). In this instance, I conclude that Mrs Lawn failed to show that there had not been a residential use of the appeal mobile home that brought about a material change of its use to a residential use that required planning permission. The appeal on ground (c) fails.

7. There were no other grounds of appeal. The case presented by Mrs Lawn implicitly suggests she has a home elsewhere. Therefore the requirement of the notice to cease the residential use of the mobile home and remove it from the land within one month would not amount to the loss of her home. Any appropriate new mess facility connected with the lawful use of the land might be a matter for discussion with the Council.

FORMAL DECISION

8. The enforcement notice is upheld.

John Whalley INSPECTOR