
Appeal Decision

Site visit made on 17 January 2017

by Elizabeth Jones BSc (Hons) MCTP MRTPI

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

Decision date: 16 February 2017

Appeal Ref: APP/P1805/C/16/3157801

**Land at Stoke Prior Sports and Country Club, Weston Hall Road,
Bromsgrove, Worcestershire B60 4AL**

- 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 Nigel Meredith against an enforcement notice issued by Bromsgrove District Council.
- The enforcement notice, numbered 2016/0104/ENF, was issued on 18 August 2016.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of part of the Land shown edged and hatched blue on the attached plan ("the hatched land") from the stationing of caravans and tourers to the occupation of caravans and motorhomes for residential purposes.
- The requirements of the notice are:
 - 1) Permanently cease the use of the hatched land for the residential occupation of caravans and motorhomes.
 - 2) Remove from the hatched land all domestic paraphernalia and services used in association with the unauthorised development; including (but not limited to) gas bottles, aerials and satellite dishes, water containers, awnings and associated items.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (c) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with correction.

The appeal on ground (c)

1. The appeal on ground (c) is that the matters alleged in the enforcement notice do not constitute a breach of planning control. The appellant argues that the Certificate of Lawful Use (CLU) granted by the Council in 2006 Ref: 44/06 makes it lawful for caravans to be stationed on the land for the purpose of residential occupation.
2. The appellant contends that the term 'stationing' includes "*the stationing of caravans for the purpose of human habitation*" as taken from the 1960 Caravan Sites Act. The fact that these words are taken from the Caravan Sites Act is of no great relevance as the purpose of the wording in that act is merely to define what a caravan site is. It cannot be extrapolated that the term 'stationing' in the CLU includes 'stationing for the purpose of human habitation'.
3. The appellant refers to case law¹ where amongst other things; it was held that if a certificate is issued for an area of land in terms that are wider than the existing use of the land, it will have the effect of certifying lawfulness for the

¹ R v Sheffield City Council (1994) 68 P. & C.R. 331 & Broxbourne BC v SSE [1980] QB 1.

wider terms. The CLU in this case does not define any particular use, "stationing" is akin to "putting" or "placing" caravans on the land – it does not give any indication of a use to which they are put. Thus, I do not consider this case is directly comparable. To my mind a caravan may be 'stationed' on the land for a variety of uses including for example leisure, agriculture and for storage. Thus, I do not consider that all these uses are implicit in the term 'stationing'.

4. The CLU does not certify that any particular use of the land was lawful on the day on which it was issued. It is established that it is necessary to specify the purpose for which a caravan is being used in order to establish whether a material change of use has occurred from the lawful use of the planning unit. In this instance the First Schedule of the CLU states "Stationing of caravans or tourers" without any reference to the purpose for which they were stationed on the land. Consequently, the CLU does not in itself assist in establishing the current lawful use of the land.
5. The Council consider that based on the evidence² at the time the CLU was granted the caravans and tourers were being stored on the land. From all I have read, albeit that some of the caravans were connected to an electricity supply, no mention was made of the caravans or tourers being used for residential purposes.
6. I have powers under s176 to correct any defect in a notice or vary the terms of the notice if I am satisfied that the correction or variation will not cause injustice to the parties. In my view, given that 'stationing of caravans and tourers' is not a use of the land, this could be deleted from paragraph 3 of the notice as it is not essential to specify the former use. I am satisfied that this correction will not cause any injustice to the parties.
7. The CLU does not indicate that there was a lawful residential use of the land and there is other evidence to suggest that the caravans and tourers were previously stored on the land. The Appellants have not discharged the burden of proof to demonstrate on the balance of probability that residential use does not constitute a breach of planning control. The appeal on ground (c) fails.

The appeal on ground (f)

8. The appeal on ground (f) is that the steps required by the notice to be taken or the activities required by the notice to cease, exceed what is necessary.
9. The appellant suggests that the steps should be revised to enable the use of the appeal site as a caravan site as permitted under Schedule 2, Part 5 of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, there is no need to amend an enforcement notice specifically to preserve permitted development rights, since these are set out in a development order and can easily be ascertained.
10. The appellant also submits that the second requirement is too vague and there is no plan accompanying the notice to identify the location of the "offending domestic paraphernalia and services".
11. The plan attached to the notice correctly identifies the appeal site edged and hatched in blue. Moreover, the notice tells the recipient fairly what he has

² Council's statement Appendices 4 & 5.

done wrong and what he must do to remedy it. It is not excessive to require the removal of all items introduced to facilitate the unauthorised use as part of the requirements of the notice. Leaving the domestic paraphernalia and services used in connection with the unauthorised use would not achieve the purpose of the notice which is to remedy the breach of planning control by restoring the land to its condition before the breach took place. I therefore consider that the removal of all domestic paraphernalia and services used in association with the unauthorised use is necessary and justified. I conclude that no lesser steps would remedy the breach of planning control that has occurred. The appeal on ground (f) therefore fails.

Formal Decision

12. It is directed that the enforcement notice be corrected by:

- i) The deletion of the words "from the stationing of caravans and tourers" in paragraph 3 ('The Breach of Planning Control Alleged').

13. Subject to this correction the appeal is dismissed and the enforcement notice is upheld.

Elizabeth Jones

INSPECTOR