
Appeal Decision

Site visit made on 6 February 2017

by Thomas Shields MA DipURP MRTPI

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

Decision date: 22 February 2017

Appeal Ref: APP/F4410/C/16/3158109

Land at Field House Farm, Sticking Lane, Adwick upon Dearne, Doncaster, South Yorkshire, S60 0NH

- 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 Jason Hughes against an enforcement notice issued by Doncaster Metropolitan Borough Council.
 - The enforcement notice was issued on 5 August 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use from use for agricultural purposes to mixed agricultural use and the siting of three touring caravans for residential use as indicated on the attached plan.
 - The requirements of the notice are:
 - (i) Remove the three touring caravans being used for residential purposes from the site.
 - (ii) Cease the use of the site for residential use excluding the area cross hatched black on the attached plan.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has 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. It is directed that the enforcement notice is varied by deleting the words "3 months" in sections 5(i) and 5(ii), and substituting instead the words "6 months".
2. Subject to the variation the appeal is dismissed and the enforcement notice is upheld.

Procedural matters

3. An appeal on ground (b) of section 174(2) of the Act is "that those matters have not occurred". The "matters" referred to are the matters stated in the notice which may give rise to, or constitute, the breach of planning control. In this regard, there is no dispute that the caravans subject of the notice were placed on site, and indeed were still there at the time of my visit to the appeal site. Therefore the matters stated in the notice which may give rise to the breach of planning control have clearly occurred and an appeal on this ground has no prospect of success.

4. However, it is clear from the appellant's comments on the submitted appeal form that he considers the stationing of the caravans on the land are ancillary to the use of a lawful dwelling and do not involve a material change of use of the land. That argument is an appeal on ground (c); that those matters (if they occurred) do not constitute a breach of planning control.
5. However, the Council's submitted evidence relates to the appellant's arguments as though they had been made on ground (c). As such, there would be no injustice to either party in my determining the appeal by treating the ground (b) appeal as an appeal on ground (c). I have therefore done so.
6. An earlier enforcement notice issued in October 2014 alleged a material change of use in respect of a static mobile home and four touring caravans used for residential purposes. The static mobile home was referred to as a 'chalet' and I shall do the same. That notice was corrected and quashed on appeal¹ by decision made on 18 May 2016. In so far as it relates to the appeal before me it is material consideration to which I attach due weight. I shall refer to it as the 'first appeal'.

The appeal on ground (c)

7. As stated previously, the ground of appeal is that the matters alleged to have occurred in the notice (if they occurred) do not constitute a breach of planning control. In legal grounds such as these, the burden of proof is on the appellant and the test of the evidence is on the balance of probability.
8. Present on the land subject of the enforcement notice are the chalet and, in close proximity to it, four touring caravans. The chalet, and its use for residential purposes, was held to be immune from enforcement action in the first appeal. It is not subject of the notice in this appeal. One of the touring caravans is for storage of medicines and other miscellaneous items used for agricultural purposes on the farm. Its use as such was found in the first appeal to be ancillary to agriculture and does not amount to development. It also is not subject of the notice.
9. The alleged material change of use and the requirements in the notice therefore relate only to the remaining three touring caravans.
10. The appellant's evidence is that the chalet is a lawful dwelling on his working farm for the accommodation of him and his family. It has only two bedrooms, and the appellant has eight young children. Of the three small touring caravans enforced against, two are used as extra sleeping accommodation, and the other is used for the storage of children's clothes and toys. As such, they provide essential accommodation, ancillary to use of the lawful dwelling. In these circumstances, it is argued, the farm is in mixed use for agriculture and as a dwelling house. On this basis the appellant argues that the stationing of the three touring caravans on the land does not involve development, and so does not constitute a material change of use of the land or a breach of planning control.
11. However, this (appellant's) argument was advanced in the first appeal and was considered in detail by the Inspector in her reasoning. Significantly, no further evidence, or change in circumstances has been submitted by the appellant in respect of the three residential caravans in this appeal.

¹ APP/F4410/C/14/3001253

12. Given these factors, and having regard to the layout of the farmyard, agricultural buildings, chalet, and touring caravans which I saw during my visit to the appeal site, I come to the same conclusion as the Inspector in the first appeal. Hence, the three touring caravans subject of this appeal would only be lawful if the lawful use of the land on which they are sited was residential or a mixed agricultural and residential use, or if they were within the curtilage of the chalet.
13. For the same reasons as detailed by the Inspector in her decision² on the first appeal, I find that the three caravans are not on land which is in lawful residential use, mixed agricultural and residential use, or within the curtilage of the chalet. Their siting for residential purposes therefore results in a material change of use of the land from agriculture and amounts to development within the meaning of section 55 of the Act.
14. Since the development does not benefit from planning permission it constitutes a breach of planning control.
15. The appeal on ground (c) therefore fails.

The appeal on ground (g)

16. The ground of appeal is that the period for compliance with the notice's requirements fall short of what should reasonably be allowed. The notice requires compliance within three months.
17. The appellant seeks a period of twelve months on the basis that the caravans form part of his family's home, and that three months is insufficient to make alternative living arrangements whilst maintaining his livelihood. It is also stated on his appeal form that the needs of the children are central issues. However, no detailed evidence in respect of such needs has been submitted.
18. I see no reason why the notice could not be physically complied with within three months. However, I also recognise that finding alternative and suitable accommodation for an eight child family, while also working the farm, could be difficult. Additionally, I cannot be sure from the evidence before me that the house in Darfield, referred to by the Council, is still available and suitable.
19. Taking account of all the above factors I consider that a period of six months would be more reasonable. To this limited extent the appeal succeeds and I have varied the notice accordingly.

Thomas Shields

INSPECTOR

² APP/F4410/C/14/3001253, ground (c), paragraphs 62 to 72