
Appeal Decision

Site visit made on 14 February 2017

by Andrew R Hammond MSc MA CEng MIET MRTPI

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

Decision date: 20 March 2017

Appeal Ref: APP/C1625/C/16/3160897

Box Lane Smallholding, Hampton Green, Minchinhampton, Stroud GL6 9AD

- 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 Valerie Hole against an enforcement notice issued by Stroud District Council.
 - The enforcement notice, numbered S.12/0104/UNCHU, was issued on 8 September 2016.
 - The breach of planning control as alleged in the notice is without planning permission the making of a material use of the land from use for agriculture to a mixed use of agriculture and use as a residential caravan site (including the installation of a shower, shower cubicle, kitchen sink and domestic appliances within existing buildings on the Land used ancillary to the said unauthorised residential use).
 - The requirements of the notice are:-
 - i) Cease the use of the Land as a caravan site
 - ii) Permanently remove the caravan from the Land
 - iii) Permanently remove from within existing buildings all sleeping and laundry facilities
 - The period for compliance with the requirements is one month after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed on ground (f), and the enforcement notice is varied: by the deletion of requirement i) and the substitution of the following requirement i) Cease the use of the land as a residential caravan site; and by the deletion of requirement ii) and the substitution of the following requirement ii) Remove the caravan from the land. Subject to these variations the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal under ground (a)

Main Issue

1. Under ground (a) the appellant is seeking a temporary planning permission for a period of twelve months to facilitate surveillance of the smallholding and livestock. The main issues in the appeal are, therefore, the sustainability of the appeal proposal and the effect on the character and appearance of the area.

Reasons

2. There is no dispute that the appellant has been using a 'camper van' as residential accommodation on the appeal site for some time, albeit that the appellant described the use as for 'shepherding'. At the time of the site visit it was not present on the site and it was explained that the appellant was attending a hospital appointment.
3. The site inspection revealed a smallholding of around 2.5 hectares with a number of agricultural structures used for livestock and storage of equipment used for the upkeep of land. One of these structures, a stable block, had a section which was locked and inaccessible but there was no reason to believe that its use was other than agricultural. There was a small flock of sheep on the far side of the appeal site.
4. In addition to the above, there is a small building which, at the time of the visit, contained a sink, microwave oven and fridge plus a shower and wc. There were clear signs of food storage and preparation.
5. The appeal site is outside any settlement development limit (SDL) as defined in the Stroud District Local Plan (LP). The sustainable development strategy of the LP is to direct residential development to those areas with a range of services and employment opportunity. LP Policy CP3 lists those settlements which have SDLs within which development may be appropriate and LP Policy CP2 allows for limited development outside designated areas where it complies with other policies of the LP.
6. LP Policy CP15 only permits development outside an SDL if one or more criteria are met including that it is essential to the maintenance or enhancement of a sustainable farming or forestry enterprise within the district.
7. The appellant suggests that it is essential to live on the site in order to provide security of the holding and livestock. However the holding is small scale incapable of commercial operation which would justify residential occupation on the basis of its management. Despite the stated fears of the appellant, there are many unattended flocks of sheep in the countryside and there is nothing specific in this case to justify a residential presence. The use of the land for residential purposes is, therefore, contrary to LP Policy CP15.
2. The appeal site is within the Cotswolds Area of Outstanding Natural Beauty (AONB) between Minchinhampton Common and the village of Minchinhampton, which has a distinct boundary with the surrounding local countryside. By introducing residential use, and potential domestic paraphernalia, into the open countryside outside the village boundary the rural character and appearance of the AONB is compromised.
8. The use of the land for residential purposes is therefore contrary to LP Policy ES7 which gives priority to the protection and quality of the landscape character.
9. The conflict with LP Policy would remain even if the use were to be temporary.
10. Whilst it is acknowledged that the appellant has personal reasons for living on the appeal site, these reasons do not outweigh the harm resulting from the conflict with the development plan and the appeal on ground (a) fails.

The appeal under ground (f)

11. Under ground (f) the appellant pleads that the requirements of the notice exceed what is necessary to remedy the breach of planning control. It is suggested that requirement 1 is excessive in that the land could be used as a caravan site for a period of 28 days under permitted development rights. It is clear that the enforcement notice attacks the residential use and no party would be caused prejudice if the notice is amended to require the cessation of the use of the land as a *residential* caravan site.
12. The appellant also pleads that step ii) of the notice is excessive as the removal of the caravan *permanently* would prevent ancillary or incidental parking on the land. An enforcement notice can require the removal of the caravan (camper van) as its presence on the land was to facilitate the unauthorised change of use. However, the use of the word *permanently* is unnecessary as any return of the caravan for residential purposes would render the appellant liable to prosecution. Furthermore, any use of the land as a caravan site which might be allowed under Part 5 of Schedule 2 of the General Permitted Development Order 2015 would be limited to 28 days in any 12 month period. Any subsequent return would be limited to a maximum of 28 days in any 12 month period. No injustice would be caused by the amendment of the notice by the rewording of requirement ii) to read 'Remove the caravan from the land'.
13. The appellant also pleads that step iii) is excessive in that the removal of facilities from the building is unnecessary in that the alleged link with the residential use would fall away upon a return of the land to its authorised use for agriculture and that, in addition, there are no sleeping or laundry facilities. Whilst no sleeping or laundry facilities were observed on the site visit, it is possible that there have been such facilities or that they could be re-instated. It is not unreasonable to require such facilities to be removed as part of the requirements of the notice.
14. The appeal under ground (f) succeeds in part and the enforcement notice will be amended by the inclusion of the word *residential* in requirement i) and the deletion of the word *permanently* in requirement ii).

The appeal under ground (g)

15. Under ground (g) the appellant pleads that one month is insufficient time to remove the caravan and find alternative accommodation.
16. The caravan (motor home) in question is self-contained and capable of being moved off site. Indeed it was not present at the time of the site visit. One month is sufficient time to identify an alternative authorised site.
17. The appeal on ground (g) fails.

Andrew Hammond

Inspector