The Planning Inspectorate

Appeal Decision

Site visit made on 8 May 2017

by Elizabeth Jones BSc (Hons) MCTP MRTPI

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

Decision date: 30 May 2017

Appeal Ref: APP/R1845/C/16/3164662
Land at Hoarstone Stables, Hoarstone Lane, Bewdley, Worcestershire

- 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 David Henshall against an enforcement notice issued by Wyre Forest District Council.
- The enforcement notice was issued on 1 November 2016.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land for the stationing of a mobile home.
- The requirements of the notice are: (1) Cease the use of the land for the stationing of a mobile home. (2) Permanently remove the mobile home from the land.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(b) of the Town and Country Planning Act 1990 as amended.

Decision

1. The enforcement notice is quashed.

Reasons

The allegation

2. The allegation in the enforcement notice refers to 'the change of use of the land for the stationing of a mobile home'. The stationing of a mobile home is not in itself development. The notice does not make it clear the purpose for which the mobile home is stationed on the land and thus requires correction. It is established that it is necessary to specify the purpose for which the mobile home was used in order to establish whether a material change of use has occurred from the existing lawful use of the land which in this case is the keeping of horses[1].

3. Having been invited by the Planning Inspectorate, the Council has subsequently drawn my attention to a previous appeal[2] and suggested that the wording of the allegation could be amended to "without planning permission, the change of use of the land for the stationing of a mobile home for purposes not reasonably required for the purposes of keeping of horses or agriculture".

4. Despite having been referred to another Inspector's decision, the Courts have held in Miller-Mead v Minister of Housing and Local Government [1963] 2 QB 196 that the enforcement notice must tell the recipient what they have done wrong and what they must do to remedy it.

[1] Planning Permission Ref: WF468/98 granted on 21 July 1998.
[2] APP/J3720/C/14/2213775.

5. The amended wording of the allegation as suggested is not sufficiently precise to tell the appellant what he has done wrong. Consequently, it does not meet the test in Miller-Mead. The appeal has been brought under ground (b) only – that the matters alleged have not occurred as a matter of fact. Had the allegation been correctly worded it might be that the case would have been argued differently by the appellant.

Conclusion

6. For the reasons given above I conclude that the enforcement notice does not accurately identify the alleged breach of planning control. It is not open for me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act since I cannot be satisfied that no injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances the appeal under ground (b) as set out in section 174(2) of the 1990 Act as amended does not fall to be considered.

Elizabeth Jones

INSPECTOR